THE HAYSVILLE MUNICIPAL
ZONING AND PLANNING CODE
JANUARY 2015 EDITION

PREPARED BY THE HAYSVILLE PLANNING COMMISSION
WITH THE ASSISTANCE OF CITY STAFF

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Article 1. Title, Purpose, Authority and Jurisdiction

100 TITLE

These regulations, including the zoning district maps made a part hereof, shall be known and may be cited as the "The Haysville Municipal Zoning and Planning Code, December, 2011 Edition" and shall hereinafter be referred to as "these regulations."

101 PURPOSE

These regulations are intended to serve the following purposes:

A. To promote the public health, safety, morals, comfort and general welfare;

B. To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;

C. To regulate and restrict the location, use and appearance of buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes including flood plains;

D. To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;

E. To protect property values and conserve energy and natural resources;

F. To provide for adequate light and air and acceptable noise levels;

G. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;

H. To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;

I. To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters;

J. To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and exceptions; and

K. To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

102 AUTHORITY

These regulations are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-736, 12-753 to 12-761 inclusive, 12-763, 12-764, 12-766, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

103 ZONING JURISDICTION

These regulations shall apply to all buildings, structures and land within the corporate limits of the City of Haysville, Kansas, as presently exist or are hereafter established by annexation.

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Article 2. Interpretation, Construction and Definitions

200 RULES OF INTERPRETATION

A. Minimum Requirements. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.

B. Overlapping or Contradictory Regulations. Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

C. Private Agreements. The provisions of these regulations are not intended to abrogate any easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The City does not have a responsibility to enforce such private agreements.

D. Unlawful Uses. No use of land or structure which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful use or structure is in conflict with the requirements of these regulations, said use or structure remains unlawful hereunder.

E. Not a Licensing Regulation. Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

F. Effect on Existing Permits. For all purposes except single-family residential developments platted and recorded after January 1, 1992, nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any land or structure in the event that:

1. A zoning permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof; and

2. Such permit had not by its own terms expired prior to such effective date; and

3. Such permit was issued on the basis of an application showing complete plans for proposed construction and/or use; and

4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans; and

5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and

6. Construction pursuant to such permit is completed prior to the expiration of such permit; and

7. When the use of land or a structure is completed under a permit to which this section applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

G. Vesting of Development Rights. For the purpose of single-family developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within 5 years of recording a plat, the development rights in such shall expire.

For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit.

201 RULES OF CONSTRUCTION

A. In the construction of these regulations, the provisions and rules of the Section shall be preserved and applied, except when the context clearly requires otherwise:

1. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

2. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

3. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:

a. “And” indicates that all connected items, conditions, provisions or events shall apply; and

b. "Or" indicates that one or more of the connected items, conditions, provisions or events shall apply.

4. The word "shall" is mandatory; the word "may" is permissive.

5. The words "used" or "occupied" include words "intended, designed or arranged to be used or occupied."

6. The word "lot" includes the words "plot," "tract" or "parcel."

7. Unless otherwise specified, all distances shall be measured horizontally.

B. In all other cases all words and phrases not defined in this article shall be defined by the commission as necessary utilizing a dictionary to limit possible definitions and using the spirit and intent of this chapter as a guide.

202 DEFINITIONS

The following definitions shall be used in the interpretation and construction of these regulations.

A. Accessory apartment. An accessory use dwelling unit that may be wholly within, or may be detached from, a principal single-family dwelling unit.

B. Accessory use or structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

C. Agriculture. Includes farming, dairying, pasturage, agriculture, horticulture, viticulture, animal and poultry husbandry, and the sale of such products on the premises by one engaged in agriculture as herein defined.

D. Alley. A public right-of-way along the side of or in the rear of a lot intended to provide a secondary means of access to and from the street and such lot. An alley is not intended for general traffic circulation. Any such access designated as a fire lane shall meet the fire code requirements for such. No lot shall front upon an alley.

E. All weather surface. Includes: 1) asphalt, minimum 2" inches depth, shall be placed over base material minimum 4" inches depth, 2) concrete, minimum 4" inches depth, 3) compacted rock/crushed concrete, minimum 4" inches depth, utilizing minimum 1" inch diameter rock with not more than 10% fines for a binder, 4) brick paver stone, minimum 2 3/8" inches thick shall be placed over base material minimum 5" inches depth. Base material shall consist of a minimum 4" inches depth crushed stone or gravel, and topped with sand minimum 1" inch depth. Utilization of the compacted rock/crushed concrete option shall require borders installed around all four sides, extending 2" to 3" inches above ground and not to impede drainage. Every all-weather surface must be properly maintained and kept free of potholes, weeds, grass, dust, trash, and miscellaneous scattered objects (debris) to qualify as an "all-weather" surface. A surface that is not maintained free of weeds and debris is not an "all-weather" surface as an improperly developed or maintained surface does not meet the goals or the intent of this definition.

F. Alteration, structural. Any change in the supporting members of a building such as bearing walls, partitions, columns, beams or girders, or any substantial change in roof or exterior walls.

G. Attached structure. Any building or structure that is physically connected to another by means of the walls or roof touching.

H. Auction house. An enclosed place or establishment that primarily conducts or operates for compensation or profit as a private or public market where items are offered for sale through competitive bidding. The term "auction house" shall not include flea markets, yard sales, livestock markets, or vehicle auctions. The term "auction house" shall not include on premise estate, foreclosure, real estate, or personal property sales conducted, as regulated by Article 5 of the Haysville City Code – Temporary Sales.

I. Automobile. A vehicle with GVW under 10,000 lbs.

J. Automobile service center. Buildings and premises where gasoline, oil, batteries, tires and automobile accessories and grease may be supplied and dispensed at retail and where the following services may be rendered and sales made:

1. Sale and servicing of spark plugs, batteries and distributor parts.

2. Tire servicing and repair, but no recapping or re-grooving.

3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, bearings, mirrors, replace shock absorbers, and the like.

4. Radiator cleaning and flushing.

5. Washing and polishing and sale of automobile washing and polishing materials.

6. Greasing and lubrication.

7. Providing and repairing fuel pumps, oil pumps and lines.

8. Minor servicing and repair of carburetors.

9. Adjusting and repairing brakes.

10. Front end alignment.

11. Drivetrain repair or replacement.

12. Sales of cold drinks, packaged foods, tobacco and similar convenience goods for automobile service station customers as accessory and incidental to principal operation.

13. Provision of road maps and other informational material to customers; provision of restroom facilities.

Uses permissible at an automobile service center do not include the storage of an automobile not in operating condition for more than 60 days.

K. Automobile wrecking. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

L. Banking Services. An establishment engaged in deposit banking or consumer lending. Typical uses include commercial banks, savings institutions and credit unions.

M. Bed and Breakfast Inn. The use of an owner-occupied or manager-occupied residential structure to provide rooms for temporary lodging or lodging and meals for not more than 15 guests on a paying basis.

N. Billboard. Any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from the display.

O. Block. A tract of land bounded by streets, or by a combination of streets, railway right-of-way or waterways.

P. Board. Shall mean the board of zoning appeals.

Q. Boarding house. A building or portion thereof, other than a hotel or motel, where lodging and meals for four or more persons are provided for compensation.

R. Building. A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or chattels. When separated by division walls from the ground up without openings, each portion of such building shall be deemed a separate building.

1. Building, accessory. A building which is on a foundation that meets the requirements of the adopted building code on the same lot as the main building or principle use, and of a nature customarily incidental and subordinate to the main building or principle use.

2. Building, auxiliary. A building on the same lot as the main building or principle use which may be on a substandard permanent foundation and of a nature customarily incidental and subordinate to the main building or principle use and does not exceed 99 square feet. For example, a portable metal storage shed on a concrete slab with modified footings is an auxiliary building.

3. Building, community. A building for social, educational, and recreational activities of a neighborhood or community, provided, that any such use is not operated for commercial gain.

S. Building, height. The vertical distance measured from the adjoining curb grade to the highest point of the roof, provided, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building.

T. Building line. A line that is the distance that is required by the City of Haysville Zoning Regulations between a principal structure or accessory structure and the property line of the lot on which the structure is located. This term refers specifically to the exterior face of a wall of an existing structure or the limits to which an exterior face of a wall of a proposed structure may be built, but shall not include the face of one story unoccupied gable roofed areas over open porches, entrances or like appendages.

U. Class "A" Club. A premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them. No memberships required.

V. Class “B” Club. A premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment. Memberships only.

W. College or University. An institution of higher education offering undergraduate or graduate degrees and including such accessory uses as dormitories and stadiums.

X. Commission. The Haysville Planning Commission.

Y. Construction Sales and Service, General. An establishment engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, construction equipment sales and rental, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, construction and trade contractors' storage yards and public utility corporation storage yards.

Z. Construction Sales and Service, Limited. An establishment engaged primarily in the retail sale of materials used in the construction and maintenance of buildings or other structures, as well as limited outdoor storage of materials. Typical uses include home improvement centers, lawn and garden supply stores, electrical, plumbing and heating supply stores and public utility corporation storage yards. For the purposes of this definition, limited open air storage shall be screened by a six foot opaque fence or wall and shall be ancillary to the primary use and may not exceed 15 percent of the main building floor area unless the screening method is an extension of the architecture of the main building. Materials stored within the enclosure shall not be permitted to exceed the height of the fence or wall.

AA. Convenience Store. An establishment engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use and which may specifically include a car wash as an accessory use, but shall not include vehicle repair.

AB. Correctional Placement Residence. A facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations:

1. prior to, or instead of, being sent to prison;

2. received a conditional release prior to a hearing;

3. as part of a local sentence of not more than one year;

4. at or near the end of a prison sentence, such as a state operated or franchised work release program, or a privately operated facility housing parolees;

5. received a deferred sentence and placed in facilities operated by community corrections; or

6. require court ordered guidance services for alcohol or chemical dependence.

Such facilities will comply with the regulatory requirements of a federal, state or local government agency; and if such facilities are not directly operated by a unit of government they will meet licensure requirements that further specify minimum service standards.

AC. Court. An open, unoccupied space other than a yard on the same lot with a building or group of buildings, and which is bounded on two or more sides by such building or buildings.

1. Inner court. A court other than an outer court. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

2. Outer court. A court which opens onto a required yard, or street or alley. The width of an outer court is the minimum horizontal dimension measured in the same general direction as the yard, street or alley upon which the court opens. The depth of an outer court is the minimum dimension measured at right angles to its width.

AD. Detached Structure. Any building or structure that does not have a wall, roof or other structural member in common with or in permanent contact with another building or structure.

AE. District. Any section of the city for which the regulations governing the use of buildings and premises and the height and area of buildings are uniform.

AF. Drinking Establishment. Premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

AG. Dwelling.

1. One-family dwelling - (Single Family). A detached building used exclusively for residential purposes having suitable accommodations for only one family.

2. Two-family dwelling - (Duplex). A detached building used exclusively for residential purposes and designed for or occupied by two families independently of each other.

3. Three-family dwelling - (Triplex). A detached building used exclusively for residential purposes and designed for or occupied by three families independently of each other.

4. Four-family dwelling - (Fourplex). A detached building used exclusively for residential purposes and designed for or occupied by four families independently of each other.

5. Multiple-family dwelling - (Apartment, condominium). A building or portion of a building having suitable accommodations for five or more families living independently of each other, who may or may not have joint use of utilities, halls, yards, etc. The term includes premises occupied permanently for residential purpose in which the rooms are occupied in apartments, suites or groups such as bachelor apartments, studio apartments, kitchenette apartments and all other dwellings similarly occupied. The term does not include premises occupied transiently as a temporary abode such as hotel, motel, dormitory and lodging or boarding and rooming houses.

6. Mobile home. A detached residential dwelling unit, manufactured prior to 1976 or not in conformance with HUD Code, that is designed for transportation on streets or highways on its own wheels or on latter or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations on jacks or other temporary foundations, connections to utilities and the like. A recreational vehicle is not to be considered a mobile home.

7. Modular home. A detached residential dwelling unit which meets existing city building codes and which is built off-site and delivered to site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on permanent foundation, connection to utilities and the like.

8. Residential-design manufactured home. A manufactured home on permanent foundation which has minimum dimensions of 22 body feet in width, a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with the architectural and aesthetic standards specified *(See Section 504)*. A residential-design manufactured home shall be considered a single-family dwelling. (K.S.A. 12-742)

9. Manufactured home. A structure consisting of one or more mobile components manufactured to the standards embodied in the Federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code. Such units shall be connected to all utilities in conformance with applicable regulations. This shall not include a "residential-design manufactured home." (K.S.A. 12-742)

AH. Dwelling unit. One or more rooms in a dwelling, apartment, condominium, or hotel designed for occupancy by one family for living purposes.

AI. Easement. A grant of specific property rights to land for the use of the public, a corporation or another person or entity.

AJ. Educational institutions. An institution which offers general academic instruction equivalent to the standards prescribed by the State Board of Education or Board of Regents.

AK. Entertainment, Indoor. An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge and wholly enclosed in a building. Typical uses include bowling alleys, bingo parlors, pool halls, theaters, banquet facilities and video game arcades. It does not include buildings typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

AL. Entertainment, Outdoor. An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity ranges, miniature golf courses and drive-in theaters. It does not include golf courses, parks, open space and recreational facilities typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

AM. Family. An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding household employees) not related by blood or marriage, living together in a single dwelling unit.

AN. Frontage. The property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead end street.

AO. Frontage lot. That portion of the frontage which lies between the side lot lines of a single lot.

AP. Garage.

1. Private garage. A detached accessory building or portion of a main building for the parking and temporary storage of automobiles of the occupants of the premises, and wherein (a) not more than one space is rented for parking to persons not occupants of the premises; (b) not more than one commercial vehicle per dwelling unit is parked or stored; and (c) the commercial vehicles permitted do not exceed 26,000 pounds gross vehicle weight rating.

2. Public garage. A building other than a private garage used for housing, care or repair of automobiles, or where such vehicles are equipped for operation, repaired, parked or stored for remuneration, hire, or sale.

3. Storage garage. (See Self-Service Storage.)

AQ. Governing Body. The mayor and city council of the City of Haysville.

AR. Green area. A landscape area set aside and maintained by the owner for the aesthetic enjoyment of the public.

AS. Group Home. A residential facility licensed by the state Department of Social and Rehabilitation Services, the Behavioral Service Regulatory Board or the State Board of Healing Arts that is occupied or intended to be occupied by persons with a "disability," as that term is defined in K.S.A. 12-736 as amended, and staff residents, none of whom need be related by blood or marriage. For purposes of this zoning ordinance, a group home shall be considered a single-family dwelling and shall be permitted wherever single-family dwellings are permitted.

AT. Group Home, Limited. A group home that is occupied by not more than ten persons, including a maximum of eight persons with a disability and a maximum of two staff residents, none of whom need be related by blood or marriage.

AU. Group Residence. A residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, children in need of care under the Code for Care of Children and emergency shelters for the homeless and for victims of crime, abuse or neglect and include establishments providing guidance services for persons receiving non-court ordered alcohol or chemical dependence treatment which will comply with all applicable regulatory requirements of federal, state or local government agencies. The term "group residence" does not include "group home" or "correctional placement residence."

AV. Group Residence, General. A group residence that is occupied by more than fifteen persons, including staff members who reside in the facility.

AW. Group Residence, Limited. A group residence that is occupied by six to fifteen persons, including staff members who reside in the facility.

AX. Hard surface. Asphalt, concrete or other similar surface impervious to water and strong enough for the intended use. A "Hard Surface" differs from an "All-Weather Surface" in that a "Hard Surface" does not include gravel or rock.

AY. Home occupation. A business, profession, occupation or trade conducted in a dwelling unit, for gain or support by a resident of the dwelling unit and which is accessory to the use of the dwelling unit as a residence.

AZ. Hotel. Any building or portion thereof which contains guest rooms which are designed or intended to be used, let or hired out for occupancy by, or which are occupied by 10 or more individuals for compensation whether it be paid directly or indirectly.

AAA. Improvements. All facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for residential, commercial or industrial purposes. Improvements shall include all facilities listed in Article VII of the subdivision regulations adopted by the city.

BA. Industrial dry cleaner. All dry cleaning establishments that derive less than 75 percent of their business from walk-in traffic.

BB. Industrial laundry. All laundries that derive less than 75 percent of their income from self-service customers.

BC. Launderette. All laundries whereby 75 percent of the business is self-service laundry--washers and dryers.

BD. Laundry or Dry Cleaning, Limited. An establishment primarily engaged in providing household laundry and dry cleaning services, classified as low hazard in applicable codes, with customer drop-off and pickup.

BE. Laundry Services. An establishment primarily engaged in the large scale cleaning of laundry or that includes dry-cleaning activities other than those classified as low hazard in applicable codes.

BF. Livable area. The total contiguous area of a dwelling unit.

BG. Loading space. Space logically and conveniently located for bulk pickups and deliveries, scaled to such vehicles when required off-street parking space is filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. (See also Section 500.)

BH. Lot or plot. A portion or basic parcel of a subdivision or other tract of land intended to be the parcel by which such land would be individually developed and transferred. A building site or parcel of land occupied or intended to be occupied by a building and accessory buildings, and including such open spaces as are required under this article, and having its principal frontage upon a public street or officially approved place.

1. Corner lot. A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

2. Interior lot. A lot other than a corner lot.

3. Through lot. A lot not a corner lot with frontage on more than one street.

TABLE: LOT TYPES

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BI. Lot area. The total horizontal area within the lot line of a lot.

BJ. Lot depth. The horizontal distance between the front and rear lot lines measured along the median between the two side lot lines.

BK. Lot lines. The lines bounding a lot as defined herein.

BL. Lot of record. A lot or portions of one or more lots which are a part of a subdivision, the map of which has been recorded in the office of the register of deeds in Sedgwick County or a plot described by metes and bounds, the description of which has been recorded in the office of the register of deeds of Sedgwick County.

BM. Lot split. The dividing or redividing of a lot or lots in a recorded plat of a subdivision into not more than two tracts that meet the criteria established within the subdivision regulations.

BN. Lot width. The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines measured along lot depth.

BO. Manufactured home park. A tract of land in one's ownership that is used or intended to be used by 2 or more manufactured homes and which has sanitary facilities, water, electricity and other similar utilities available to permit residential occupancy of homes. The term 'manufactured home park' does not include sales lots on which unoccupied homes, whether new or used, are parked for the purposes of storage, inspection, or sale.

BP. Manufactured home park boundary line. The outermost property line that encloses the spaces/lots contained within a manufactured home park or subdivision.

BQ. Manufactured home space. Shall mean a parcel of ground within a manufactured home park that is designated and intended to accommodate one manufactured home or mobile home, that provides service facilities for water, sewer, and electricity. Also referred to as a lot.

BR. Manufactured home subdivision. For the purpose of this ordinance shall mean two or more lots, created at the same time by division from a larger tract, which are intended to be individually owned and developed manufactured homes and which have sanitary facilities, water, electricity and other similar utilities available to permit residential occupancy of the homes. Manufactured homes, modular homes, residential-design manufactured homes and site-built homes shall also be permitted unless prohibited by covenant or by conditions of the conditional use permit).

BS. Master plan. Any plan or map adopted by the city for guidance of growth and improvement of the city and its environs including modifications or refinements that may be made from time to time.

BT. Metes and bounds means a system of describing and identifying a parcel of land by measures (metes) and direction (bounds) from an identifiable point of reference.

BU. Motel or motor hotel. A group of attached or detached dwellings with separate toilet facilities for each unit, and which are provided for transient guests.

BV. Non-conforming structure or lot. A structure, or lot, lawfully existing at the time this zoning ordinance became effective, or as amended, which does not conform with the setback, height, lot size or other dimensional or property development standards applicable to the zoning district in which the structure or lot is located.

BW. Non-conforming use. Use of any land, building or structure which does not comply with the use regulations of the zoning district in which such use is located but which complied with the use regulations in effect at the time the use was established.

BX. Nurseries and Garden Centers. A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, and other garden and farm variety tools and utensils.

BY. Nursing or Convalescent Home. A residential health care facility licensed and regulated by the State of Kansas which provides lodging, bed care, in-patient services and supervision for children or the aged who need regular medical attention, or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or emergency medical services or institutions for the care and treatment of mental illness, alcoholism or narcotics addictions.

BZ. Original tract. A tract of land in existence at the time that Sedgwick County adopted subdivision regulations. (July 1, 1969)

CA. Owner. Any person or persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land.

CB. Park. A tract of land that is owned by or under the control of a public agency or homeowner's association that provides opportunities for active or passive recreational activities. Park may include outdoor swimming pools, swimming pool areas and hard surface recreational areas, provided these areas are unenclosed, except for fences, canopies, bathhouses or other minor structures.

CC. Parking area, private. An area, other than a Street or Alley, used or intended to be used for the Parking of the Motor Vehicles, boats, Trailers that are exempt from Motor Vehicle registration by the state or are registered or are required by law to be registered with a 2M+ Kansas license plate in the City or 8M in the County, and unoccupied Recreational Vehicles, any of which shall be owned, leased, borrowed, etc. by the occupants of a Dwelling Unit that is located on the same Zoning Lot, and wherein not more than one Commercial Vehicle per Dwelling Unit is parked and the permitted Commercial Vehicle does not exceed 26,000 pounds gross vehicle weight rating.

CD. Parking space. (Automobile) A hard surface, (except may be "all weather" in areas identified as flood plains by the Zoning Administrator), surfaced area on privately owned property within or without a building or on a private or public parking area and sufficient in size for the parking of one automobile. The area shall conform to design criteria set forth in Section 500.

CC. Parts Car. An inoperable motor vehicle, including any vehicle without current registration, which is owned by a collector to furnish parts which will enable the collector to restore, preserve and maintain a special interest vehicle, street rod vehicle or antique.

CD. Pedestrian way. A right-of-way for pedestrian traffic.

CE. Place. An open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

CF. Planning consultant. Any person, firm, partnership, association, or corporation contracted to provide professional planning advice or service to the city.

CG. Plat. An engineering drawing/map of a tract of land that has been lawfully subdivided meeting the criteria established in the subdivision regulations and duly recorded in the office of the register of deeds of Sedgwick County.

CH. Porch. A roofed structure projecting from a building and separated from the building by the walls thereof and having no enclosing features except roof supports and open railing.

CI. Public way. Any parcel of land unobstructed from the ground to the sky, more than 10 feet in width, appropriated to the free passage of the general public.

CJ. Recreational vehicle. For the purpose of this ordinance shall mean a unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight feet and a body length not exceeding 40 feet. Units may have their own power, or be designed to be drawn or mounted on an automotive vehicle and may or may not include individual toilet and bath. Recreational vehicle shall include motor homes, travel trailers, truck campers, camping trailers, converted busses, house boats or other similar units as determined by the inspector.

CK. Recreational vehicle campground. For the purpose of this ordinance shall mean the use of a parcel or tract of land, which provides space for the transient occupancy of recreational vehicles, and which is lawfully permitted to be used for the parking and occupancy of two or more recreational vehicles. Recreational vehicles, whether new or used, which are parked for the purpose of storage, inspection or sale shall not be construed to be a recreational vehicle campground, and must be maintained to comply with all outdoor storage regulations.

CL. Replat. The subdivision of a tract of land that has previously been lawfully subdivided and a plat of such prior subdivision duly recorded.

CM. Restaurant. A public eating establishment in which the primary function is the preparation and serving of food on the premises.

CN. Restaurant club. A licensed food service establishment which, as determined by the director (as defined by K.S.A. 41-102), derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12 month period.

CO. Restaurant Drinking Establishment. Subject to a food sales requirement under KSA 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director (as defined by K.S.A. 41-102), derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12 month period.

CP. Rooming House. A building or portion thereof other than a hotel, where lodging for four or more persons is provided for compensation.

CQ. Safety Services. A facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

CR. Salvage Yard. A lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storing and/or salvaging of machinery, equipment, appliances or vehicles that are not in operating condition; and/or for the sale of parts thereof. Typical uses include vehicle salvage yards and junk yards.

CS. Schools. Elementary or Secondary. The use of a site for instructional purposed on an elementary or secondary level, approved under the regulations of the State.

CT. Screening. Fencing, evergreen vegetation or landscaped earth berms maintained for the purpose of concealing from view the area behind such fences, evergreen vegetation or berms.

CU. Self-Service Storage. An enclosed storage facility of a commercial nature containing independent, fully enclosed bays that are leased to tenants exclusively for dead storage of their goods or property.

CV. Setback line. The distance that is required by this Code between a Principal Structure or Accessory Structure and the property line of the Lot on which the Structure is located. (Note: The term Setback refers to a required minimum area, while the term Yard refers to the actual open area.)

CW. Shopping center. A group of retail stores, originally planned and developed as a single unit, with immediate adjoining off-street parking facilities.

CX. Signs. As defined by Chapter 16B, Haysville Municipal Code.

CY. Spa. Exercise equipment, sauna, pool, or steam room.

CZ. Storage, Outdoor. The keeping, storing, placing or locating outside of an enclosed structure for more than 72 consecutive hours any property, goods, products, equipment, trailers, or other similar items not considered accessory uses as listed in this code. This does not include the storage and/or baling of junk, scrap, paper, bottles, rags or similar materials. The term “Outdoor Storage” does not include “Vehicle Storage Yard.”

DA. Street. A thoroughfare, whether public or private, 25 feet or more in width. For the purpose of this chapter, the word “street” shall include the words “road,” “highway,” “boulevard,” “avenue,” etc.

1. Arterial street. Any street serving major traffic movements which is designed primarily as a traffic carrier between cities or between various sections of the city, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.

2. Collector street. Any street designed primarily to gather traffic from local or residential streets and carry it to the arterial system.

3. Dead end street. A street or road that has no outlet and terminates in a dead end or cul-de-sac.

4. Freeway. Any divided street or highway with complete access control and grade separated interchanges with all other streets and highways.

5. Half street. A street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the ultimate and intended street width.

6. Local street. (See residential street.)

7. Marginal access street. A local street which is parallel with and adjacent to a limited access highway or arterial street and which provides access to abutting properties and protection from fast through traffic on the limited access highway or arterial street.

8. Residential street. Any street designed primarily to provide access to abutting property to include lanes, drives, circles, boulevards, or any other designation that might be given to such streets.

9. Road or roadway. The paved or improved area existing on the street right-of-way exclusive of sidewalks, driveways or related uses.

10. Subcollector. Any street designed to provide passage to residential streets and convey traffic to collector streets or through traffic to lower order streets.

DB. Street lines. The right-of-way line of the street.

DC. Structure or building. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, billboards and poster panels. For the purpose of this chapter, fences will not be considered structures.

DD. Subdivider. The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of the subdivision regulations for the purpose of subdividing land.

DE. Subdivision. Any division or redivision of land by means of mapping, platting, conveying, changing, or rearranging of boundaries, or otherwise, and shall also relate to the process of subdividing or other land subdivided, where appropriate to the context.

DF. Tavern. An establishment in which the primary function is the public sale and serving of malt beverages provided there is no dancing.

DG. Use, principal. The main and primary purpose for which land or a structure is designed, arranged or intended, or for which it may be occupied or maintained under this ordinance.

DH. Utility, Major. Generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities or agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term "utility" shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities or other uses defined in this section.

DI. Utility, Minor. Services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as lift stations, poles and lines, which do not generate discernable noise, odor or vibration within any nearby residential district, and which comply with the setback requirements of the district in which they are located.

DJ. Variance. To authorize in specific cases a deviation from the specific terms of the zoning ordinance, which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will, in an individual case, result in unnecessary hardship, and provided the spirit of the zoning ordinance shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by the zoning ordinance in such district.

DK. Vehicle and Equipment Repair. An establishment primarily engaged in the major repair or painting of motor vehicles or heavy equipment, including auto body repairs, installation of major accessories and transmission and engine rebuilding services. Typical uses include major automobile repair garages, farm equipment repair and paint and body shops.

DL. Vehicle Restoration, General. An establishment primarily engaged in painting of, restoration of, or body work to, motor vehicles or heavy equipment. Typical uses include paint or body shops. "Parts cars" may be stored on premises in conjunction with a general vehicle restoration business. Such inoperable vehicles must comply with the outdoor storage regulations, and those portions of the health and welfare code pertaining to their storage and maintenance.

DM. Vocational School. A use providing education or training in business, commercial trades, language, arts or other similar activity or occupational pursuit.

DN. Wholesale and Warehousing, General. An establishment that is primarily engaged in the storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. Uses include truck terminal or bus servicing facilities, major mail distribution centers, frozen food lockers, motor freight terminals, moving and storage firms, and warehousing and storage facilities.

DO. Wholesale and Warehousing, Limited. An establishment that is engaged in the small scale storage and sale of goods to other businesses for resale, excluding major distribution centers, motor freight terminals, moving and storage firms and similar high volume, high turnover facilities. Limited wholesale and warehouse area will generally be less than 50,000 square feet in area and operate during conventional business hours.

DP. Yard. An open space, other than a court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line, is unoccupied and unobstructed from the ground upward, except as provided in this chapter.

1. Front yard. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front property line and the building line. On corner lots, the street address shall determine the primary front yard requirement which shall have the required front yard depth and the subordinate front yard other shall have no less than fifteen (15) feet.

2. Rear yard. A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot lines. In case of through lots and corner lots there will be no rear yards, but only front and side yards.

3. Side yard. From the front yard to the point of intersection of the rear yard or property line, when no rear yard exists.

4. Street yard. The area of a lot, which lies between the property line abutting a street and the street wall line of the building. If a building has a rounded street wall or if the building is on an irregular-shaped lot, wall lines extending parallel to the street wall from the points of the wall closest to the side property lines shall be used to define the limits of the street yard.

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ARTICLE 3. GENERAL REGULATIONS

300 DISTRICTS

For the purpose of regulating the use of land, location of trades, industries and commercial enterprises, the zoning regulations provide for the city to be divided into districts as follows:

A. Residential - AZ, AA, A, AAA, AB, AC, BB, B, CC, C;

B. Commercial - OC, DD, D, E;

C. Industrial - F, G.

301 DISTRICT MAP ADOPTED

A. Boundaries of the zoning districts set out in Section 300 are hereby established as shown on the map designated as the zoning district map. The map and all the notations, references and information shown thereon are hereby made as much a part of this chapter as if the same were set forth in full herein. It shall be the duty of the city clerk to keep in file in his or her office an authentic copy of the map, all charges, amendments or additions thereto, and duplicate copies thereof shall be kept on file in the office of the planning commission and the zoning administrator.

B. When definite distances in feet are not shown on the zoning district map, the district boundaries are intended to be along existing street, alley, or platted lot lines or extension of the same, and if the exact location of such line is not clear, it shall be determined by the zoning administrator, due consideration being given to location as indicated by the scale of the zoning district map.

C. When the streets or alleys on the ground differ from the streets or alleys as shown on the zoning district map, the zoning administrator may apply the district designations on the map to the streets and alleys on the ground in such manner as to conform to the intent and purpose of the zoning regulations.

D. All territory which may hereafter be annexed to the city shall, unless otherwise noted, automatically be classed as lying and being in the District “AA” until such classification shall have been changed by an amendment to the zoning regulations as provided by law in keeping with the approved land use plan. Further, within 60 days after a review and update of the land use plan, following or in conjunction with annexation, all land annexed will be reviewed on the basis of the land use plan and the commission will make recommendations regarding land to be zoned by general revision of the existing zoning ordinance.

E. Whenever any street, alley or other public way is vacated by official action of the governing body, the zoning districts adjoining each side of such street, alley or public way shall automatically extend to the center of such vacation and all the area included in this vacation shall then and thenceforth be subject to all regulations of the extended district.

302 BOUNDARIES OF DISTRICTS

The boundaries of the districts are, unless otherwise indicated, the centerline of streets and alleys.

303 REGULATIONS; ALL DISTRICTS

The rules and regulations governing all zoning districts in the city shall be as follows:

A. Except as specifically noted in this article, the type of construction permitted will be governed by the building codes duly adopted and in use in the city.

B. No yard, court or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be diminished in any way or again used, in whole or in part, as a yard, court or other open space for another building.

C. Except as hereinafter provided:

1. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered for use, nor shall any building or structure or land to be used or changed in use to not comply with all of the district regulations established by this chapter for the district in which the building, structure or land is located, except as noted in Article 6.

2. The yard regulations and the lot area provisions required by this chapter shall be considered minimum regulations for each and every building or structure existing at the time of the effective date of this chapter for any building or structure hereafter erected or structurally altered. No land required for yards or for lot area provisions now in use for an existing building or structure hereafter erected or structurally altered shall be considered as a minimum for a yard or lot area for any other building or structure.

3. Every building or structure hereafter erected, enlarged or converted to a use which requires off-street parking shall provide garage space or parking space in compliance with all of the district regulations established by this chapter for the district in which the building or structure is located.

4. Every building or structure hereafter erected, enlarged or converted for commercial or industrial purposes, shall provide reasonable facilities for the loading or unloading of goods in compliance with all the district regulations established by this chapter for the district in which the building, structure or land is located.

D. Offices, sheds, warehouses and open air storages used by building contractors in connection with the building of a principal building or the development of an area, may be erected and used in any district; provided, that they shall be removed from the premises within 10 days after substantial completion of the project or unusual suspension of work, or upon permit expiration, whichever is the earlier date. (See Section 704 for permit procedure.)

E. It shall be unlawful to remove minerals from the ground except in "G" Heavy Industrial Districts (excluding water).

F. It shall be unlawful to use a manufactured home for habitation except in "C" Manufactured Home Parks or Subdivisions and in compliance with all of the regulations and requirements contained in the current ordinance regulating manufactured homes, adopted by the city and on file in the offices of the commission, public works director, zoning administrator, and city clerk which code of rules and regulations is hereby adopted in its entirety and incorporated in Section 409.

G. The required front and side yard areas shall be landscaped and maintained in good condition.

H. Whenever a provision appears requiring the head of a department or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

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Article 4. Zoning Districts

400 RESIDENTIAL; "AA" DISTRICT REGULATIONS

The regulations relating to the Residential "AA" District shall be as follows:

A. Use Regulations. In the "AA" Single Family Dwelling District as defined in the terms of this article, no building shall be hereinafter erected, enlarged, converted or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Single family dwellings.

2. Conditional Uses. (See Section 702.)

   a. Parks, playgrounds and community buildings owned and/or operated by the city.

   b. Churches and their accessory buildings.

   c. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

   d. Public schools, elementary schools and high schools and private schools having a curriculum equivalent to and substantially the same as that of a public elementary or public high school but not including private kindergartens or nursery schools accommodating 10 or more students.

   e. Safety Services.

3. Home Occupations. (See Section 502)

4. Detached accessory structures: Provided, that they are located within the side and/or rear yard of a lot and are in accordance with all setback requirements.

B. Height Regulations.

1. No building shall exceed three stories or 45 feet in height.

C. Area Regulations.

1. Minimum area of dwelling shall be not less than 1,500 square feet.

2. Lot area per family--The lot area for a one-family dwelling and accessory building shall be not less than 15,000 square feet.

3. Eave overhangs, cornices, chimneys, awnings, basement escape window wells and similar architectural appendages may extend into required yards by a maximum of 30 inches provided they shall not encroach on any platted or recorded easement.

4. Front yard.

   a. In all locations where building lines or setback lines or front yard lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum front yard setback shall be the same as the distance between the front line and the building or setback line shown on the plat.

      Provided further, with regard to single family dwellings only, an open, unenclosed porch may project into a required front yard for a distance not exceeding eight feet but shall not encroach upon any platted or recorded easement.

   b. In the "AA" Single Family Dwelling District, the minimum front yard setback shall be 30 feet; provided, that the minimum front yard setback of all lots between two adjacent conforming use buildings shall be the distance between the front of the lot and a straight line projected between the nearest front corner of the building on each side of the lot in question: Provided further, that the application of this rule shall not reduce the minimum front yard setback to less than 20 feet.

      Where the lot under consideration adjoins on one side only a lot having an existing conforming use building, the minimum front yard setback shall be determined by the following formula: (30' + X)/2, where X equals the minimum front yard setback of the existing building.

      Where there are through lots, the above front yard requirements shall apply to the frontage on both streets.

   c. The application of these regulations shall not increase the front yard setback to more than 35 feet: Provided, that existing buildings located wholly or partly on the front half of lots having setbacks in excess of 35 feet shall be considered as having setbacks of 35 feet and this figure of 35 feet shall be used in calculating the setback of buildings on adjacent lots. Buildings placed entirely on the rear half of lot shall not be considered.

d. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks on the recorded plat are shown in excess of the minimum setback requirement the greater setback shall be used.

5. Side yard.

a. In all locations where building lines or side lines on corner lots are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum width of the side yard shall be the same as the distance between the side lot line and the building line shown on the plat.

b. On all lots which are hereafter improved with major buildings or additions to major buildings, such construction shall not reduce the side yard to less than six feet or height divided by four whichever is greater.

c. A side yard width of not less than 25 feet on the side of the lot adjoining another building site shall be provided for all schools, libraries, churches, community houses and other public and semi-public buildings used, constructed or enlarged in the "AA" Single Family Dwelling district.

d. Accessory building shall be not less than six feet from side lot lines or building height divided by four whichever is greater, nor shall they encroach on any platted or recorded easement.

e. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks on the recorded plat are shown in excess of the minimum setback requirements the greater setbacks shall be used.

6. Rear yard.

a. There shall be rear yard having a depth of not less than 25 feet.

Provided further, that chimneys may project into the required rear yard but shall not encroach upon any platted or recorded easement.

b. Accessory building shall be not less than 10 feet from the centerline of any platted alley. Where there is no platted alley, they shall be located not less than five feet from the rear lot line, nor shall they encroach on any platted or recorded easement.

D. Parking Regulations. (See Section 500.)

401 RESIDENTIAL; "AAA" DISTRICT REGULATIONS

The purpose of this section is to accommodate large lot, single-family residential development and complementary land uses. The "AAA" district is intended for application in areas where some public services are available and where soils are capable of accommodating septic tanks. The regulations relating to the Residential "AAA" District shall be as follows:

A. Permitted uses. The following uses shall be permitted by-right in the "AAA" District.

1. Single-family dwellings.

2. Manufactured Home

3. Churches and their accessory buildings.

4. Day care.

5. Golf Course.

6. Group home, limited.

7. Parks, playgrounds and community buildings owned and/or operated by the city.

8. School, elementary, middle and high.

9. Utility, minor.

10. Agriculture

B. Conditional uses. The following uses shall be permitted in the "AAA" District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Section 702.

1. Accessory apartment.

2. Group residence, limited and general.

3. Neighborhood swimming pool.

4. Cemetery.

5. Community assembly.

6. Convalescent care facility, limited.

7. Cultural group.

8. Day care, general.

9. Government service.

10. Hospital.

11. Library.

12. Safety services.

13. Utility, major.

14. Airport or airstrip.

15. Bed and breakfast inn.

16. Kennel, boarding/breeding/training and hobby.

17. Parking area and/or accessory drive ancillary.

18. Recreation and entertainment, indoor and outdoor.

19. Recreational vehicle campground.

20. Riding academy or stable.

21. Industrial, manufacturing and extractive uses:

    a. Asphalt or concrete plant, general

    b. Mining or quarrying

    c. Oil and gas drilling

    d. Rock crushing

22. Agricultural research.

23. Agricultural sales and service.

C. Property development standards. Each site in the "AAA" district shall be subject to the following minimum property development standards.

1. Minimum lot size: 20,000 square feet

2. Minimum lot width: 100 feet

3. Minimum front setback: 25 feet

4. Minimum rear setback: 25 feet

5. Minimum interior side setback: 10 feet

6. Minimum street side setback: 20 feet

7. Maximum height: 35 feet; 45 feet if located at least 25 feet from all lot lines; no maximum height limit for barns, silos and other similar farm buildings; heights for conditional uses to be determined as part of the conditional use permit.

D. Special "AAA" district regulations. The following special regulations shall apply to property in the "AAA" district.

1. Lot size requirements for nonresidential uses and uses served by private water supply. The minimum lot size requirement for residential uses served by private water supply shall be 40,000 square feet. The minimum lot size for nonresidential uses shall be established by the zoning administrator.

2. Lot size requirements for uses served by sewage lagoons. The minimum lot size requirement for uses served by sewage lagoons shall be five acres.

3. Permitted Animals. The following animals are permitted.

   a. Dogs and Cats in accordance to City Code.

   b. Large and Small Domestic animals including, but not limited to rabbits, fowl, bovine cattle, horses, sheep, and goats, in accordance with each of the following standards:

      i. Providing at least ten thousand (10,000) square feet of fenced open space per animal if the animal shelter or enclosure is within three hundred (300) feet of any dwelling on adjoining premises.

ii. Maintaining the animals within a fenced enclosure.

iii. Cleaning the domestic animal shelters at least once each week or as often as necessary to prevent or control odors and fly breeding; provided, however, that this shall not apply to grazing areas.

iv. Disposing of collected fecal material and other solid organic waste at a sanitary landfill or fertilizer processing plant or by proper disposal on land used for agricultural purposes.

v. Storing grain or protein food in tightly covered, rodent-proof, metal containers or rodent-proof bins.

vi. Maintaining the premises free of rodent harborage.

vii. Using anticoagulant rodenticides for the control of rodents and organophosphorus insecticides for the control of flies, or providing other effective chemical means for the control of rodents and flies.

viii. Using soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

ix. Constructing and maintaining animal shelters and enclosures, including fences, by the use of dimension materials or other effective means so as to prevent domestic animals from breaking out or causing hazard to persons or property.

x. Storing refuse in proper containers or in a manner approved by the health officer, and disposing of such refuse at least once each week or as frequently as may be required by the health officer.

xi. Storing solid waste accumulated from the cleaning of domestic animal shelters in metal or plastic containers with tightfitting metal or plastic lids and disposing of such solid waste at least once each week.

xii. Providing proper drainage so that there is no accumulation of rainfall or liquid waste.

402 RESIDENTIAL; "A" DISTRICT REGULATIONS

The regulations relating to the Residential "A" District shall be as follows:

A. Use Regulations. In the "A" Single Family Dwelling District as defined in the terms of this article, no building shall be hereinafter erected, enlarged, converted or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Single family dwellings.

2. Parks.

3. Conditional Uses. (See Section 702.)

   a. Community buildings owned and operated by the city.

   b. Churches and their accessory buildings.

   c. Public libraries.

   d. Public schools, elementary schools and high schools and private schools having a curriculum equivalent to and substantially the same as that of a public elementary or public high school but not including private kindergartens or nursery schools accommodating 10 or more students.

   e. Public golf courses operated for commercial purposes and open to anyone who applies, except miniature golf courses and driving ranges.

   f. Development of natural resources and extraction of raw materials such as rock, gravel, sand fill dirt, soil, etc..

   g. Accessory apartments.

   h. Safety services.

4. Home Occupation. (See Section 502.)

5. Detached accessory structures: Provided, that they are located within the side and/or rear yard of a lot and are in accordance with all setback requirements.

B. Height Regulations.

1. No building shall exceed three stories or 45 feet in height.

C. Area Regulations.

1. Minimum area of dwelling - 600 square feet for each family.

2. Lot area - the lot area for "A" single family dwellings and accessory buildings shall be not less than 6,000 square feet.

3. Eave overhangs, cornices, chimneys, awnings, basement escape window wells and similar architectural appendages may extend into required yards by a maximum of 30 inches provided they shall not encroach on any platted or recorded easement.

4. Front yard.

   a. In all locations where building lines or setback lines or front yard lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum front yard setback shall be the same as the distance between the front line and the building or setback line shown on the plat.

      Provided further, with regard to single family dwellings only, an open, unenclosed porch may project into a required yard by a distance not exceeding eight feet but shall not encroach upon any platted or recorded easement.

   b. In the "A" Single Family Dwelling District, the minimum front yard setback shall be 25 feet; provided, that the minimum front yard setback on all lots between two adjacent conforming use buildings shall be the distance between the front of the lot and a straight line projected between the nearest front corner of the building on each side of the lot in question: Provided further, that the application of this rule shall not reduce the minimum front yard setback to less than 20 feet.

      Where the lot under consideration adjoins on one side only a lot having an existing conforming use building, the minimum front yard setback shall be determined by the following formula: (25' + X)/2 where X equals the minimum front yard setback of the existing building.

      Where there are through lots, the above front yard requirements shall apply to the frontage on both streets.

c. The application of these regulations shall not increase the front yard setback to more than 35 feet: Provided further, that existing buildings located wholly or partly on the front half of lots having setbacks in excess of 35 feet shall be considered as having setbacks of 35 feet and this figure of 35 feet shall be used in calculating the setback of buildings on adjacent lots. Buildings placed entirely on the rear half of lots shall not be considered.

d. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks on the recorded plat are shown in excess of the minimum setback requirements the greater setbacks shall be used.

5. Side yard.

a. In all locations where building lines or side lines on corner lots are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum width of the side yard shall be the same as the distance between the side lot line and the building line shown on the plat.

b. On all lots which are hereafter improved with major buildings or additions to major buildings, there shall be a side yard of not less than six feet width or height divided by four whichever is greater.

c. A side yard width of not less than 25 feet on the side of the lot adjoining another building site shall be provided for all schools, libraries, churches, community houses and other public and semi-public buildings used, constructed or enlarged in the “A” Single Family Dwelling district.

d. Accessory building shall not be closer than three feet from the side yard of the foundation or shall not encroach on any platted or recorded easement. In addition; if there is a legally built structure set three feet from the side yard it can be added on to.

e. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks on the recorded plat are shown in excess of the minimum setback requirements the greater setbacks shall be used.

f. If an accessory building has been lawfully constructed with a side yard setback of three feet, additions to such lawfully constructed accessory buildings may be constructed with a three foot side yard setback.

6. Rear yard.

a. There shall be rear yard having a depth of not less than 20 feet.

Provided further, that chimneys may project into the required rear yard but shall not encroach upon any platted or recorded easement.

b. Accessory building shall be not less than 10 feet from the centerline of any platted alley. Where there is no platted alley, they shall be located not less than five feet from the rear lot line, nor shall they encroach on any platted or recorded easement.

D. Parking Regulations. (See Section 500.)

403 RESIDENTIAL; "AB" DISTRICT REGULATIONS

The purpose of this section is to accommodate large lot, single-family residential development and complementary land uses. The "AB" district is intended for application in areas where some public services are available. The regulations relating to the Residential "AB" District shall be as follows:

A. Permitted uses. The following uses shall be permitted by-right in the "AB" District.

1. Single-family dwellings.

2. Manufactured Home:

3. Church or place of worship.

4. Day care.

5. Golf Course.

6. Group home, limited.

7. Parks, playgrounds and community buildings owned and/or operated by the city.

8. School, elementary, middle and high.

9. Utility, minor.

10. Agricultural uses.

B. Conditional uses. The following uses shall be permitted in the "AB" District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Section 702.

1. Accessory apartment.

2. Group residence, limited and general.

3. Neighborhood swimming pool.

4. Cemetery.

5. Community assembly.

6. Cultural group.

7. Day care, general.

8. Government service.

9. Hospital.

10. Library.

11. Safety services.

12. Utility, major.

13. Bed and breakfast inn.

14. Parking area and/or accessory drive ancillary.

15. Industrial, manufacturing and extractive uses:

    a. Mining or quarrying

    b. Oil and gas drilling

    c. Rock crushing

C. Property development standards. Each site in the "AB" district shall be subject to the following minimum property development standards.

1. Minimum lot size: 10,000 square feet

2. Minimum lot width: 80 feet

3. Minimum front setback: 25 feet

4. Minimum rear setback: 20 feet, except that the rear setback may be reduced to 5 feet when adjacent to a platted reserve which has a minimum width of 20 feet, provided however, there shall be no encroachment into or over any utility easement.

5. Minimum interior side setback: 10 feet

6. Minimum street side setback: 20 feet

7. Maximum height: 35 feet

404 RESIDENTIAL; "AC" DISTRICT REGULATIONS

The purpose of this section is to accommodate moderate-density, single-family residential development and complementary land uses. The "AC" district is intended for application in areas where some public services are available and where soils are capable of accommodating septic tanks. The regulations relating to the Residential "AC" District shall be as follows:

A. Permitted uses. The following uses shall be permitted by-right in the "AC" District.

1. Single-family dwellings.

2. Manufactured Home.

3. Churches and their accessory buildings.

4. Day care.

5. Golf Course.

6. Group home, limited.

7. Parks, playgrounds and community buildings owned and/or operated by the city.

8. School, elementary, middle and high.

9. Utility, minor.

10. Agriculture

B. Conditional uses. The following uses shall be permitted in the "AC" District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Section 702.

1. Accessory apartment.

2. Group residence, limited and general.

3. Neighborhood swimming pool

4. Cemetery.

5. Community assembly.

6. Cultural group.

7. Day care, general.

8. Government service.

9. Safety services.

10. Utility, major

11. Bed and breakfast inn.

12. Parking area and/or accessory drive ancillary.

13. Industrial, manufacturing and extractive uses:

    a. Mining or quarrying

    b. Oil and gas drilling

    c. Rock crushing

C. Property development standards. Each site in the "AC" district shall be subject to the following minimum property development standards.

1. Minimum lot size: 6,000 square feet

2. Minimum lot width: 50 feet

3. Minimum front setback: 25 feet

4. Minimum rear setback: 20 feet, except that the rear setback may be reduced to 5 feet when adjacent to a platted reserve which has a minimum width of 20 feet, provided however, there shall be no encroachment into or over any utility easement.

5. Minimum interior side setback: 6 feet

6. Minimum street side setback: 15 feet

7. Maximum height: 35 feet

405 RESIDENTIAL; "AZ" DISTRICT REGULATIONS

The regulations relating to the Residential "AZ" District shall be as follows:

A. Use Regulations. In the "AZ" Single Family/Zero Lot Line Residential District as defined in the terms of this article, no building shall be hereinafter erected, enlarged, converted or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Single family dwellings.

2. Conditional Uses (See Section 702).

a. Home Occupation (See Section 502).

3. Detached Accessory Structures: provided, that they are located within the rear yard of a lot and meet the setback requirements of the primary structure.

B. General Conditions.

1. Land used for an "AZ" District:

a. Shall be located as a self-contained unit of development such as created by (1) a cul-de-sac; (2) zero lot line (ZLL) lots which face similar types of lots across a street and are not located on a street carrying substantial volumes of traffic such as arterial or collector streets; or (3) lots which face land use other than single or two-family dwellings either existing or potentially to be developed.

b. Shall, as a condition of zoning, be platted according to City Subdivision Regulations with specific attention given to any problems of drainage or utility easements which may be created by the particular design concept.

2. A fencing and/or screening design plan for all ZLL lots shall be submitted showing how privacy for each lot and its relationship to other lots will be achieved.

3. To ensure privacy, no windows, doors or other openings shall be permitted on the wall with the most minimum setback. Such wall shall be constructed of the same material as the other exterior walls of the dwelling unit.

4. Each dwelling shall have adequate space for at least two automobiles on the driveway area.

5. Proposed restrictive covenants shall be submitted guaranteeing the maintenance of the fencing and/or screening plan, access for maintenance of structures in close proximity to one another, and other restrictions necessary to carry out the intent of the overall design concept.

6. In the event that within two years following approval by the Governing Body, the applicant does not initiate construction in accordance with the plans and conditions so approved, the Planning Commission may initiate action to change the zoning district classification of the property. A public hearing shall be held at which time the applicant shall be given any opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and an appropriate recommendation to the Governing Body for official action.

C. Height Regulations.

1. No building shall exceed two stories or 35 feet in height.

D. Area Regulations.

1. Minimum area of dwelling - 600 square feet for each family.

2. Lot area - the lot area for "AZ" single family dwellings and accessory buildings shall be not less than 5,000 square feet.

3. Lot width - the lot width shall be not less than 50 feet.

4. Lot depth - the minimum lot depth shall be not less than 90 feet.

5. Front yard.

a. In all locations where building lines or setback lines or front yard lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum front yard setback shall be the same as the distance between the front line and the building or setback line shown on the plat.

b. In the "AZ" Single Family Dwelling/Zero Lot Line District, the minimum front yard setback shall be 15 feet on interior lots. On corner lots, 25 feet on all sides abutting a street, except that 15 feet is permitted where such frontage is adjacent to an interior zero lot line lot.

6. Side yard.

a. In all locations where building lines or side lines on corner lots are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum width of the side yard shall be the same as the distance between the side lot line and the building line shown on the plat.

b. A minimum of 10 feet shall be maintained between the adjacent residential structure. Overhanging eaves and gutters are permitted, provided that provisions for their extension and maintenance over adjacent property is contained in the restrictive covenants.

7. Rear yard.

a. There shall be rear yard having a depth of not less than 15 feet.

Provided further, that chimneys and egress windows may project into the required rear yard but shall not encroach upon any platted or recorded easement.

b. Accessory building shall be not less than five feet from the rear lot line, nor shall they encroach on any platted or recorded easement.

E. Parking Regulations. (See Section 500.)

406 RESIDENTIAL; "BB" ONE AND TWO FAMILY DISTRICT REGULATIONS

The regulations relating to the Residential "BB" District shall be as follows:

A. Use Regulations. In the "BB" One and Two Family (Duplex) Dwelling District as defined in the terms of this article; no building shall be hereinafter erected, enlarged, converted or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Single or two family dwellings.

2. Parks.

3. Conditional Uses (See Section 702.).

   a. Community buildings owned or operated by the city.

   b. Churches and their accessory buildings.

   c. Public Libraries.

   d. Public schools, elementary schools and high schools and private schools having a curriculum equivalent to and substantially the same as that of a public elementary or public high school but not including private kindergartens or nursery schools accommodating 10 or more students.

   e. Golf courses, except miniature golf courses and driving tees operated for commercial purposes and open to anyone who applies.

   f. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

   g. Safety services.

4. Home Occupation (See Section 502.).

5. Accessory Buildings: Provided, that they are located in the rear yard and in accordance with the building code of the city.

B. <u>Height Regulations.</u>

1. No building shall exceed three stories or 45 feet in height.

C. <u>Area Regulations.</u>

1. Minimum lot area: That lot area for “BB” One and Two Family (Duplex) Dwelling shall not be less than 6,000 square feet.

2. Minimum area of dwelling shall be 600 square feet for each family.

3. Eave overhangs, cornices, chimneys, awnings, basement escape window wells and similar architectural appendages may extend into required yards by a maximum of 30 inches provided they shall not encroach on any platted or recorded easement.

4. Front yard.

a. In all locations where building lines or setback lines or front yard lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum front yard setback shall be the same as the distance between the front line and the building or setback line shown on the plat.

Provided, with regard to single family and two family dwellings only, an open, unenclosed porch may project into a required front yard for a distance not exceeding eight feet but shall not encroach upon any platted or recorded easement.

b. In all other locations in the "BB" One and Two Family (Duplex) Dwelling District, the minimum front yard setback shall be 25 feet; provided, that the minimum front yard setback on all lots between two adjacent conforming use buildings shall be the distance between the front of the lot and a straight line projected between the nearest front corner of the building on each side of the lot in question: Provided further, that the application of this rule shall not reduce the minimum front yard setback to less than 20 feet.

Where the lot under consideration adjoins on one side only a lot having an existing conforming use building, the minimum front yard setback shall be determined by the following formula: (25' + X)/2 where X equals the minimum front yard setback of the existing building.

Where there are through lots, the above front yard requirements shall apply to the frontage on both streets.

c. The application of these regulations shall not increase the front yard setback to more than 35 feet: Provided further, that existing buildings located wholly or partly on the front half of lots having setbacks in excess of 35 feet, shall be considered as having setbacks of 35 feet and this figure of 35 feet shall be used in calculating the setback of buildings on adjacent lots. Buildings placed entirely on the rear half of lots shall not be considered.

d. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks on the recorded plat are shown in excess of the minimum setback requirement the greater setback shall be used.

5. Side Yard.

a. In all locations where building lines or side lines on corner lots are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum width of the side yard shall be the same as the distance between the side lot line and the building line shown on the plat.

b. On all lots which are hereafter improved with major building, such construction shall not reduce the side yard to less than six feet or height divided by four whichever is greater nor shall they encroach upon any platted or recorded easements.

c. A side yard width of not less than 25 feet on the side of the lot adjoining another building site shall be provided for all schools, libraries, churches, community houses and other public and semi-public buildings used, constructed or enlarged in the "BB" One and Two Family (Duplex) Dwelling District.

d. Accessory building shall be not less than three feet from side lot lines or building height divided by four whichever is greater, nor shall they encroach on any platted or recorded easement.

e. Corner lots shall have at least minimum front yard setbacks on both sides abutting a street. Where setbacks are shown in excess of the minimum on recorded plats, the greater setbacks shall be used.

6. Rear yards.

a. There shall be rear yard having a depth of not less than 20 feet except, if more than one building is constructed on a corner lot, there shall not be less than 20 feet between the front and rear building and the depth of the rear yard of the rear building shall not be less than 10 feet.

b. Accessory building shall be not less than 10 feet from the centerline of any platted alley. Where there is no platted alley, they shall be located not less than five feet from the rear lot line, nor shall they encroach on any platted or recorded easement.

D. Parking Regulations. (See Section 500)

407 RESIDENTIAL; "B" TWO, THREE AND FOUR FAMILY DISTRICT REGULATIONS

The regulations relating to the Residential "B" District shall be as follows:

A. Use Regulations. In the "B" Two, Three and Four (Duplex, Triplex, Fourplex) Dwelling District, as defined in the terms of this article, no building shall be erected, enlarged, converted, or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Two, three and four family dwelling.

2. Parks.

3. Conditional uses (See Section 702).

a. Community buildings owned or operated by the city.

b. Churches and their accessory buildings.

c. Public libraries.

d. Public schools (elementary schools and high schools) and private schools having a curriculum equivalent to and substantially the same as that of a public elementary school or high school.

e. Boarding and lodging houses.

f. Office of a physician, dentist, musician or other professional person.

g. Private Kindergartens, nurseries, doctors offices, hospitals and clinics, but not small animal hospitals or animal clinics.

h. Storage garages and parking lots for storage only.

i. Intensive care facilities.

j. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

k. Safety services.

4. Home occupations (See Section 502).

5. Accessory buildings. Accessory buildings incidental to the above uses and located on the rear of the lot and in accordance with the building code duly adopted and in use in the city not involving the conduct of a retail business, commercial business or repair business.

B. Height regulations. No building shall exceed 55 feet in height.

C. Area regulations.

1. Minimum area of dwelling unit is 600 square feet per family.

2. Minimum lot area is 6,000 square feet.

3. Eave overhangs, cornices, chimneys, awnings, basement escape window wells and similar architectural appendages may extend into required yards by a maximum of 30 inches provided they shall not encroach on any platted or recorded easement.

4. Front yard.

a. In all locations where building lines or setback lines or front yard lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum front yard setback shall be the same as the distance between the front lot line and the building line or the setback line shown on the plat.

Provided, with regard to two family dwellings only, an open, unenclosed porch may project into a required front yard for a distance not exceeding eight feet but shall not encroach upon any platted or recorded easement.

b. In all other locations in the "B" Two, Three and Four Family (Duplex, Triplex and Fourplex) Dwelling District, the minimum front yard setback of all lots between two adjacent conforming use buildings shall be the distance between the front of the lot and a straight line projected between the nearest front corner of the building on each side of the lot in question: Provided further, that the application of this rule shall not reduce the minimum front yard setback to less than 20 feet.

Where the lot under consideration adjoins on one side only a lot having an existing conforming use building, the minimum front yard shall be determined by the following formula: (25 + X)/2
(X = the minimum front yard setback of the existing building).

Where there are through lots, the above front yard requirements shall apply to the frontage on both streets.

c. The application of these regulations shall not increase the front yard setback to more than 35 feet: Provided further, that existing buildings located wholly or partly on the front half of the lots, having setbacks of 35 feet, and this figure of 35 feet shall be used in calculating the setback of buildings on adjacent lots. Buildings placed entirely on the rear half of the lots shall not be considered.

d. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks are shown in excess of the minimum setback requirements on recorded plats, the greater setback shall be used.

5. Side yard.

a. In all locations where building lines or side lines on corner lots are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum width of the side yard setback shall be the same as the distance between the side lot line and the building shown on the plat.

b. On all lots which are hereafter improved with major buildings or additions to major buildings, such construction shall not reduce the side yard to less than six feet or height divided by four whichever is greater nor shall they encroach upon any platted or recorded easement.

c. A side yard width of not less than 25 feet on the side of a lot adjoining another building site shall be provided for all schools, libraries, churches, community buildings and other public or semi-public buildings used, constructed or enlarged in the "B" Two, Three and Four Family (Duplex, Triplex and Fourplex) Dwelling District.

d. Accessory buildings shall not be less than three feet from side lot lines or building height divided by four whichever is greater, nor shall they encroach on any platted or recorded easement.

e. Corner lots shall have at least a minimum of one front yard setback and a minimum 15 feet setback on the other side abutting a street. Where setbacks are shown in excess of the minimum setback requirements on recorded plats, the greater setback shall be used.

6. Rear yards.

a. There shall be a rear yard having a depth of not less than 20 feet between the front and rear building and the depth of the rear yard of the rear building shall not be less than 10 feet.

b. Accessory buildings shall not be less than 10 feet from the center line of any platted alley; they shall be located not less than five feet from the rear lot line nor shall they encroach upon any platted or recorded easement.

D. Parking regulations. (See Section 500)

408 RESIDENTIAL; "CC" APARTMENT DISTRICT REGULATIONS

The regulations relating to the Residential "CC" district shall be as follows:

A. Use regulations. In the "CC" Apartment District as defined in the terms of this article, no building shall be hereinafter erected, enlarged, converted or altered unless otherwise provided in this article except for the following uses:

1. Any permitted use in the "B" District.

2. Boarding and/or rooming houses.

3. Apartments.

4. Condominiums.

5. Home occupations (See Section 502.).

6. Conditional Uses (See Section 702.).

   a. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

B. <u>Height regulations.</u>

   1. None.

C. <u>Area Regulations.</u>

   1. Minimum areas of each dwelling unit.

      a. For those uses set out in the "B" Dwelling District the area required shall be the same as cited in the "B" District Regulations.

      b. Boarding and lodging houses shall be at least 150 square feet of each dwelling unit.

      c. Apartments shall have the following area:

         i. Studio apartments-minimum livable area of 300 sq. feet.

         ii. One bedroom apartments-minimum livable area of 400 square feet.

         iii. Two bedroom apts-minimum livable area of 500 sq. feet.

         iv. Three bedroom apartments-minimum livable area of 600 square feet.

D. <u>Lot area regulations.</u>

   1. Lot area shall not be less than 6,000 square feet.

   2. Maximum building coverage of lot shall not exceed 50 percent of area within 12 feet of the ground.

   3. Maximum lot coverage including parking shall not exceed 75 percent.

   4. See Landscaping Regulations (Section 501.)

E. Front yard.

1. In all locations where building lines or setback lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum front yard shall be the same as the distance between the front lot line and the building or the setback line shown on the plat.

   Provided, with regard to single family and two family dwellings only, an open, unenclosed porch may project into a required front yard for a distance not exceeding eight feet but shall not encroach upon any platted or recorded easement.

2. In all other locations the setback shall be measured as 50 feet from the centerline of the street except within 350 feet of an intersection of any arterial street with another arterial street, the measurement shall be 75 feet or three feet from the platted lot line whichever is greater.

F. Side yard.

1. When zero lot line development is allowed or any portion of the building is more than 150 feet from a street, dedicated fire lanes shall be provided on rear yard of at least two sides of the building.

2. In all other cases side yard shall be six feet or height divided by four whichever is greater.

In no case shall any building be constructed so as to obstruct any platted or recorded easement.

G. Rear yard.

1. There shall be a rear yard having a depth of not less than 20 feet, except if more than one building is constructed on a corner lot, there shall be not less than 20 feet between the front and rear building and the depth of the rear yard of the rear buildings shall be not less than 10 feet.

2. Accessory buildings shall not be less than 10 feet from the centerline of any platted alley. Where there is no platted alley, they shall be located not less than five feet from the rear lot line, nor shall they encroach on any platted or recorded easement.

409 RESIDENTIAL; "C" MANUFACTURED HOME PARKS OR MANUFACTURED HOME SUBDIVISIONS

The following conditions shall be attached to the recorded deed of the land and shall be complied with by the present and future owners until such time as this use is discontinued. Such homes will not be allowed on individually owned zoning lots. Parks may be further governed by a Manufactured Home Park Ordinance of the City.

A. Use Regulations. In the "C" Manufactured Home Parks or Manufactured Home Subdivision, no building shall be hereinafter erected, enlarged, converted or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Manufactured home park.

2. Manufactured home subdivision.

3. Conditional Uses.

   a. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

   b. Parks, playgrounds and community buildings owned and operated by the city.

   c. Churches and their accessory buildings.

   d. Public libraries.

   e. Public schools, elementary schools and high schools and private schools having a curriculum equivalent to and substantially the same as that of a public elementary or public high school.

   f. Public golf courses operated for commercial purposes and open to anyone who applies, except miniature golf courses and driving ranges.

   g. Office of a physician, dentist, musician or other professional person.

   h. Private kindergartens, nurseries, doctors offices, hospitals and clinics, but not small animal hospitals or animal clinics.

   i. Storage garages and parking lots for storage only.

   j. Intensive care facilities.

B. Height Regulations.

1. No building or structure shall exceed 35 feet in height.

C. Area Regulations.

1. Site Area:

a. The minimum site area for manufactured home parks or manufactured home subdivisions shall be 5 acres.

2. Lot Area:

a. The minimum lot area in manufactured home parks shall be 3,200 square feet for each manufactured home or mobile home.

b. The minimum lot area in manufactured home subdivisions shall be 5,000 square feet, with no more than 50% lot coverage.

3. Lot Width:

a. The minimum lot widths in manufactured home parks or manufactured home subdivisions shall be 40 feet.

4. Lot Depth

a. The minimum lot depth in manufactured home parks or manufactured home subdivisions shall be 80 feet.

D. Setbacks.

1. In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum front yard shall be the same as shown on the plat.

2. In all other locations the setbacks shall be:

a. **Manufactured Home Parks**. All structures within the Manufactured Home Parks, whether permanent or temporary, except as allowed by Street and Parking Regulations, shall be setback at least 25 feet from any public street rights-of-way, at least 10 feet from any private roadway or private street, and must maintain a setback no less than 10 feet from any side or rear manufactured home/mobile home space boundary.

All manufactured homes/mobile homes shall be located as to maintain a clearance of not less than 20 feet from another manufactured home/mobile home or appurtenance thereto within the same manufactured home park.

b. **Manufactured Home Subdivisions.** All structures within Manufactured Home Subdivisions shall be setback at least 25 feet from street rights-of-way or front lot lines, at least 20 feet from the rear lot line, and at least 6 feet from the side lot lines. Garages and carports shall be located in the side or rear yard. Any structure established for any main use, other than for dwelling purposes, shall comply with the same yard requirements for that use to be located in "A" Single Family dwelling district.

E. <u>Street and Parking Regulations.</u>

1. All manufactured home park spaces shall abut upon a park roadway or private street, with no manufactured home/mobile home having its direct access from a public street or highway unless such manufactured home/mobile home is located in a manufactured home subdivision, and unless in unusual circumstances the city deems that manufactured home/mobile homes shall have direct access from a public street or highway. All roadways and private streets shall have unobstructed access to a public street or highway, with all dead end roadways being provided an adequate vehicular turn around (cul-de-sac) with a diameter of not less than 80 feet. All roadways shall meet the following requirements:

a. Widths. All manufactured home spaces shall abut a private street or park roadway which maintains a street easement width of 50 feet and a paved width of 30 feet.

b. Curbs and Gutters. All private streets and park roadways shall have curbs and gutters on each side.

c. Parking and Layout. Spaces shall be laid out in such a manner as to accommodate easy access for service and emergency vehicles. Private streets and park roadways shall be plainly marked as to speed, traffic control, and other similar items.

d. Surface. All park roadways and private streets shall be surfaced with concrete, asphaltic concrete or asphalt in accordance with the City of Haysville's standard for paving and drainage improvements.

2. There shall be no on street parking allowed on any private or public street located in the Manufactured Home Park and Manufactured Home Subdivision district. Surfaced off-street parking shall be provided for each manufactured home/mobile home space. Off-street parking should be surfaced with concrete or similar material upon approval by the Public Works Director or their designee. Asphalt is a prohibited material for off-street parking.

3. Each manufactured home/mobile home space shall be allowed one detached carport or similar structure for protected off-street parking coverage, provided that such structure shall not project into the front yard setback more than 5 feet, and provided that no off-street parking accessory structure shall be located in a dedicated easement. Such structure shall be constructed from a non-combustible material and shall be unenclosed with the exception of a roof.

E. <u>Recreations, Landscape, and Screening</u>

1. Each manufactured home park shall devote an area of land not to exceed 10 percent (10%) of the tract for developed recreational area - parks, playgrounds, and/or sidewalks. Individual recreational areas shall not be less than 5,000 square feet. Except for sidewalk improvements, required setbacks, driveways, and off-street parking spaces shall not be considered as recreational space.

2. Manufactured home parks shall be screened from all zoning districts other than the Manufactured Home Park or Manufactured Home Subdivision district. Screening shall be a solid or semi-solid fence or wall which is a minimum of six feet and a maximum of eight feet high.

   In lieu of such a fence or wall, a landscape buffer may be provided not less than 25 feet in width and shall be planted with coniferous and deciduous plant material so as to provide proper screening for the park. When the landscape buffer is used, the buffer shall not be considered as any part of a required rear yard for a manufactured home space.

   The fence, wall or landscape buffer shall be properly policed and maintained by the owner.

410 COMMERCIAL; "DD" HOTEL AND MOTEL DISTRICT REGULATIONS

The regulations relating to the Commercial "DD" District shall be as follows:

A. Use Regulations. In the "DD" District, as defined in terms of this article, no building shall be hereinafter erected, enlarged, converted, or altered unless otherwise provided in this article, except for one or more of the following uses:

1. Motels and hotels including the usual related commercial enterprises such as, but not limited to,

   a. Barber and beauty shops.

   b. Restaurants and food service.

   c. Gift shops (including notions, reading materials, smoking supplies, candies, gum, jewelry and specialty items).

   d. Transportation offices.

   e. Private clubs.

   f. Conference and convention facilities.

2. Conditional Uses.

   a. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

B. Height Regulations.

1. None.

C. Area Regulations.

1. Lot area regulations:

a. Lot area shall not be less than 10,000 square feet.

b. Maximum of 90% lot coverage including parking; however, off-street area must be provided for guests to load and unload private and public vehicles (cars, vans, buses, etc...).

c. See Landscaping Regulations (Section 501.)

2. Dwelling unit area regulations.

a. Each dwelling unit shall contain a primary room containing a minimum of 150 square feet of floor area.

b. Other habitable rooms in each dwelling unit shall contain not less than 70 square feet each.

c. Each dwelling unit shall contain a separate bathroom containing a water closet, lavatory and tub or shower.

d. When housekeeping units are included:

i. The primary room shall contain a minimum of 220 square feet of floor area.

ii. As a minimum, the kitchen area will be of sufficient size to accommodate a cupboard, counter top and provide a sink, cooking appliance, refrigerator and clear working area of 30 inches in front of them.

e. No habitable room shall have less than a seven foot length or width dimension.

3. Setback Regulations.

a. In all locations where building setback lines are shown on plats which have been approved by the commission and which are recorded in the office of the register of deeds of Sedgwick County, the minimum setbacks shall be the same as those shown on the plat.

b. In all other locations in the "DD" District, the minimum building setback from adjacent street(s) shall be either 50 feet from the centerline of the street except that within 350 feet of the corner, the setback shall be 75 feet from the centerline of the street or three feet inside the property line, whichever is greater.

c. If zero lot line development is allowed, or any portion of the building is more than 150 feet from a public street, dedicated fire lanes shall be provided on at least two sides of the building.

4. Parking Regulations. (See Section 500.)

5. Screening Regulations.

a. An approved screening plan will be required before final approval of a change to "DD" zoning. Such plan shall contain:

i. A detailed plan to screen the site from adjacent lesser zoned property.

ii. Type and kind of screening material. If living screen (trees and/or shrubs) is to be used, not only the type and location of planting, but also the anticipated growth time to maturity is to be included. A maintenance plan for the screening will be required.

iii. The effectiveness of such planned visual and/or sound barriers.

iv. The schedule for completion of the screening plan.

411 COMMERCIAL; "OC" OFFICE COMMERCIAL DISTRICT REGULATIONS

A. The intent and purpose of this section is to establish a use district that is limited to offices and limited retail and service uses which are considered to be compatible when adjacent to or near residential areas and which uses are also compatible one to another within the district itself. They are smaller, less intense uses or are of such size and use to be low traffic generators. This district shall be established only when the property is contiguous to an Arterial Street as designated by the maps of the Transportation Plan Element Phase II, dated February 1988 or amendments thereto; or be established on a property that is contiguous to any non-residential zoning district.

B. In the “OC” Office Commercial District, no buildings or premises shall be used and no building or premises shall be hereafter converted, altered, enlarged or erected except for one or more of the uses permitted by the use regulations of this section. All buildings and structures erected, enlarged, converted or altered in the “OC” Office Commercial District shall conform to the area and bulk regulations set forth in this section.

C. All uses listed as permitted uses below shall be permitted in the “OC” Office Commercial District provided they comply with the following limitations:

1. No individual business shall occupy more than 5,000 square feet of floor area; provided, however, an exception to this limitation may be granted by the Haysville governing body subject to the following conditions:

    a. A basement area, not exceeding the area used for office or sales use, which is used only for storage, records, mechanical equipment or other non-person uses.

    b. Such area shall be determined to be non-traffic generating and deemed to be exempt from all off-street parking requirements.

    c. Required off-street parking shall be determined to be not less than that required by the floor area used for office and sales purposes.

    d. Any exception to the floor area granted by the governing body shall apply only to the use set forth in the application. Any change of occupancy will be subject to all limitations of these regulations.

2. All business establishments, other than office, shall be retail or service establishments dealing directly with the consumer.

3. Service establishments shall be the type that deal primarily with services for persons or businesses, or limited retail sale that do not require the use of vehicles and heavy equipment in the operation of the business other than for the delivery of goods or services to the home; e.g. florist truck, etc. Vehicles stored or retained on the site overnight shall be stored within the main structure, or an enclosed detached garage as approved by the commission.

4. No business shall display or store goods or equipment outside of an enclosed building.

5. No business establishments shall offer goods or services by way of drive-up windows or directly to customers' parked motor vehicles.

6. Motor vehicles or heavy equipment parts, service or fuels shall not be displayed in this district.

7. Exterior lighting fixtures shall be shaded so that direct light is directed away from adjacent residential property.

8. The use is limited to offices and limited retail and service uses which are considered to be compatible with and not unduly burdensome upon adjacent residential properties or residential areas located nearby.

9. The use is compatible to other businesses located nearby within the district itself.

10. The nature of any use located within the district shall be smaller, less intense uses.

11. Any business within the zone shall not generate more traffic per day upon its abutting streets than may be accommodated within its permitted parking areas.

D. Uses permitted:

1. Offices that will have no greater impact upon abutting streets and walkways than such streets and walkways were designed to carry, including the following:

a. Abstract and title companies.

b. Accountants' offices

c. Advertising agencies.

d. Architects' offices

e. Artist studios.

f. Attorneys' offices

g. Broadcasting or recording studios without transmitter towers.

h. Computer and data processing offices.

i. Dental offices and clinics

j. Engineers' offices

k. Medical offices and clinics

l. Offices, administrative, clerical sales services, including the display of sample or inventory items made available for demonstration purposes and where such display constitutes less than half of the total floor area. Such display area shall be limited to small business machines, desk computers and similar types of office aids and hardware. Such material shall not be extended to office furniture, larger appliances or machines. Repairs and services of authorized material is permitted as an accessory use.

m. Optician and optical dispensaries

n. Photography studios.

o. Real estate offices.

p. Religious offices and headquarters.

q. Travel agencies.

2. Retail stores and personal service businesses including the following:

a. Artist, craft and hobby supply store.

b. Camera shop and photographic supplies.

c. Clothing and costume rental store.

d. Drug store, pharmacy or apothecary.

e. Florist shop.

f. Hair stylists (barber and beauty shops).

g. Jewelry and jewelry repair.

h. Key shop.

i. Medical and orthopedic appliance stores.

j. Picture framing shop.

k. Shoe repair shop.

l. Tailor shop.

3. Residential uses as follows:

a. Each business or office may have an owner residence as a part of the business or office structure.

4. Miscellaneous type uses including the following:

a. Accessory uses when determined to be subordinate in area, extent and purpose to the principal use served; and is determined by the commission to contribute to the necessity of the principal residence or business established on the zoning lot.

b. Off-street parking and loading accessory to the principal use established on the zoning lot.

5. The following uses may be permitted as exceptions by the Haysville governing body; provided such uses shall comply with the use limitations of this district and any other conditions the governing body may deem necessary to protect adjacent properties:

a. Offices, retail stores and personal service business not specifically listed as a permitted use above, when it can be determined that the use is comparable to any of the above uses and compatible with the area.

E. Conditional Uses.

1. Safety services.

2. Wireless Telecommunication Facilities (See Section 505).

F. Area regulations.

1. Lot area: There shall be a minimum lot width of 80 feet and a maximum area of 12,500 square feet.

2. Front yard: Minimum 20 feet or the setback line of the recorded plat.

3. Side yard: The side yard shall not be less than six feet or the side yard requirement of the adjacent lot, whichever is the lesser.

4. Rear yard: There shall be a rear yard of not less than 10 feet.

G. Height limit.

1. No building shall be erected or enlarged to exceed a height of thirty-five feet.

H. Lot coverage.

1. There shall be a maximum of 40 percent coverage of the lot by a total of all structures.

I. Automobile parking.

1. Parking space and loading space to be provided equal to two spaces per each employee.

J. Hours.

1. Monday-Saturday...7 a.m. to 10 p.m.

412 COMMERCIAL; "D" LIGHT COMMERCIAL DISTRICT REGULATIONS

A. Uses listed as permitted in the "D" Light Commercial District shall be permitted provided that they comply with the following regulations:

1. There shall be no manufacture, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are customarily sold at retail on the premises; and

2. Such uses, operations or products are not objectionable due to odor, dust, smoke, noise, vibration, or other similar causes; and

3. All articles for sale, rent, display , storage or hire, must be kept within an enclosed building except:

a. Items specifically allowed by a permitted use;

b. Vending machines and newspaper stands may be displayed outside permanently; and

c. Merchandise that is for sale may be displayed in areas immediately adjacent to the building provided that:

i. No portion of the display shall be on publicly owned property unless the applicant shall first have obtained appropriate approval for such use from the governing body;

ii. No portion of the display shall obstruct handicapped accessibility or impede pedestrian movement;

iii. No required off-street parking space or loading area will be utilized for display, storage or dispensing;

iv. No food or drink may be displayed outside the building except in accordance with the standards of the Wichita-Sedgwick County department of public health;

v. Christmas tree and associated sales may be conducted on property zoned "D" Light Commercial even though no building shall exist.

B. The following regulations shall apply in all "D" Districts:

1. Uses permitted:

a. Any use listed as a permitted use in the "OC" Office Commercial, except that such uses must additionally comply with the regulations of this district.

b. Animal Hospitals, not including kenneling as a primary use.

c. Animal services including small animal grooming

d. Art and antique shops.

e. Automatic Teller Machine.

f. Automobile service center stations and related parts and accessory sales with outside storage of recyclable materials as follows:

i. Liquids, not to exceed one 300-gallon drum;

ii. Tires, to be stored in a container not to exceed 100 cu.ft. located at least 18" off the ground; and

iii. Scrap metal, to be in a container not to exceed 100 cu.ft.

g. Bakery goods shops.

h. Banking services.

i. Barber shop or beauty parlor, including services for hair, nails, and tanning.

j. Blueprinting or Photostatting.

k. Book or stationary store.

l. Business, music, dance, or commercial schools.

m. Camera shops.

n. Carwash.

o. Catering shops.

p. Cigar store.

q. Clinic, medical or dental for human treatment

r. Clothes cleaning agency, pressing establishment or dry cleaning establishments using non-flammable agents, employing not more than two persons engaged in dry cleaning work.

s. Computer sales and repair services.

t. Confectionary stores.

u. Convenience store.

v. Custom dressmaking or millinery.

w. Dairy stores.

x. Decorating shop.

y. Drapery shop.

z. Drug store.

aa. Dry goods and notions.

bb. Entertainment, indoor

ab Feed, seed and commercial fertilizer sales.

ac Floor coverings and rug store.

ad Florist and gift shop.

ae Frozen food lockers--no slaughtering.

af Furniture store.

ag Furrier store.

ah Grocery, food or vegetable stores.

ai Hardware, plumbing, electrical or appliance store.

aj Health club or spa.

ak Heating, air conditioning, and plumbing services offices, provided no more than 50% of the floor area is dedicated to a showroom for products offered. Fabrication and manufacturing is prohibited.

al Hobby shop.

am Hospitals and Sanitariums.

an Ice dealers, if no ice manufacturing is involved as a major enterprise.

ao Ice rink.

ap Jewelry store.

aq Launderette.

ar Laundry or dry cleaning, limited.

as Liquor and malt beverage store.

at Meat market or delicatessen store.

au Medical, dental and optical laboratories.

av Mortuary and funeral home.

aw Newsstand.

ax Newspaper office without printing presses.

ay Nurseries and garden centers.

az Nursing or convalescent home.

ba. Offices, business or professional.

bb. Office Supply store.

bc. Paint and wall paper store.

bd. Park.

be. Parking areas--public or customer improved in accordance with Section 500.

bf. Pawn shop.

bg. Pet shop or taxidermist, including small animal grooming.

bh. Photographers and photo printing.

bi. Post office.

bj. The manufacture of pottery and figurines or similar ceramic products, using only previously pulverized clay kilns fired only by electricity or gas, for retail sales only.

bk. Radio studios.

bl. Restaurants, including refreshment stands and fast food establishments.

bm. Restaurant clubs.

bn. Retail stores and retail businesses.

bo. Roller rink.

bp. Rubber and metal stamp sales.

bq. Safety services.

br. Second hand store.

bs. Shoe store or shoe repair shop.

bt. Sporting good store.

bu. Tailor, dressmaking or apparel shop.

bv. Television studios.

bw. Training facilities; provided that services are conducted within an enclosed structure typical of a classroom setting.

bx. Indoor Theaters.

by. Upholstering shop if conducted wholly within a completely enclosed building.

bz. Uses customarily incidental to any of the above uses when located on the same lot.

ca. Accessory buildings when located on the same lot.

B. Conditional uses. (See Section 702.)

1. Apartment or condominiums with five or more units complying with the conditions established in the "CC" District regulations (Section 408) allowed except for the front 100 feet from the property line and adjoining a residential use.

2. Automobile, motor home, and boat rental with outside storage of rental items allowed provided that all units displayed are in operable condition, all maintenance is conducted inside a building, the storage is on a properly drained hard or all-weather surface and loading/unloading of vehicles takes place off of public streets.

3. Automobile repair shop.

4. Automobile retail sales and related parts and accessory sales.

5. Carpenter or cabinet shop, if conducted wholly within a completely enclosed building.

6. Commercial Storage Warehouses.

7. Construction trade supply houses with fabrication, conducted wholly within a building, allowed as an incidental use.

8. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

9. Electronic assembly.

10. Entertainment, outdoor.

11. Laboratories, medical and nondestructive testing.

12. Microwave tower.

13. Monument sales.

14. New or used automobile, truck and travel trailer sales with outside storage of vehicles for sale; provided that: All vehicles displayed are in operable condition; no part/piece storage is permitted outside; all maintenance (excluding washing/waxing) is conducted inside a building; the storage is on a properly drained hard or all-weather surface; and loading/unloading of vehicles takes place off of public streets.

15. Printing press operations including newspaper presses, catalogs and bindery.

16. Public utility stations and/or substations.

17. Radio transmission tower (needs to be based on size and power).

18. Tool equipment rental with outside storage of rental items allowed provided that all units displayed are in operable condition, all maintenance is conducted inside a building, the storage is on a properly drained hard or all-weather surface, and loading/unloading of vehicles takes place off of public streets. Any unit or vehicle rated at over 30 horsepower will be stored in the rear and screened from view to at least six feet in height.

19. Wholesale food commissary.

20. College or university.

21. Vocational school.

22. Wireless telecommunication facilities (See Section 505).

C. Height regulations.

1. None.

D. Area regulations.

1. Lot area regulations:

a. Lot area to not be less than 6,000 square feet.

b. Minimum of 10 percent of lot to be maintained landscaped area.

E. Front yard.

1. In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum front yard shall be the same as the distance between the front lot line and the building or setback line shown on the plat.

2. In all other locations, the setback shall be measured as 50 feet from the centerline of the street except within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline or three feet from the platted lot line whichever is greater.

3. Where there are through lots, the above front yard requirements shall apply to the frontage on both streets.

4. Corner lots shall have at least minimum front yard setbacks on both sides.

F. Side yard.

1. When zero lot line development is allowed or any portion of the building is more than 150 feet from a street, dedicated fire lanes shall be provided on rear yard of at least two sides of the building.

2. In all other cases, side yard shall be six feet or height divided by four whichever is greater.

3. Corner lots shall have at least minimum front yard setbacks on both sides abutting a street. When setback areas are shown in excess of the minimum setback requirements on recorded plats the greater setbacks shall be used.

4. The required side yard areas shall be landscaped with grass, shrubs, trees, and/or ground cover, and shall be maintained in good condition.

G. Rear yard.

1. Accessory building shall not be located in any platted or recorded easement or alley. Where there is no platted alley they shall be located no closer than three feet of the rear lot line.

H. Parking and loading regulations. (See Section 500)

I. Landscaping regulations. (See Section 501)

413 COMMERCIAL; "E" HEAVY COMMERCIAL DISTRICT REGULATIONS

A. All uses listed as permitted in the "E" Heavy Commercial District shall be permitted provided that they comply with the following regulations:

1. There shall be no manufacture, compounding, processing or treatment of products other than that which is clearly incidental and essential to the uses permitted, except as specifically allowed in conjunction with conditional uses.

2. Such uses, operations, or products are not objectionable due to odor, dust, smoke, noise, vibration, or other similar causes.

3. Any illumination shall be so arranged as to reflect the light away from adjoining premises.

B. The following regulations shall apply in all "E" Heavy Commercial Districts:

1. <u>Uses permitted.</u>

a Any use listed as a permitted use in the "D" district, except that such uses must comply with the regulations of that district.

b Amusement enterprises, including billiard or pool hall, bowling alley, boxing arena, dance hall and games of skill and science.

c Animal feed store, wholly within a building or within a suitable enclosure to prevent obnoxious or nuisance conditions.

d Auction house.

e Automobile repair shop.

f Automobile retail sales and related parts and accessory sales.

g Automobile and trailer sales area: Provided, that any incidental repair of automobiles or trailers shall be conducted and confined wholly within a fenced area and the storage is on a properly drained hard or all weather surface.

h New or used automobile, truck and travel trailer sales with outside storage of vehicles for sale; provided that: All vehicles displayed are in operable condition; no part/piece storage is permitted outside; all maintenance (excluding washing/waxing) is conducted inside a building; the storage is on a properly drained hard or all-weather surface; and loading/unloading of vehicles takes place off of public streets.

i Baseball or football stadiums and sports arenas.

j Carpenter or cabinet shop, if conducted wholly within a completely enclosed building.

k Class “A” Club.

l Class “B” Club.

m Commercial dry cleaning and/or laundry establishments.

n Commercial storage warehouse *also including units available for rent and storage of property by individuals*.

o Construction Sales and Service, Limited; provided, all material on premises of the outside storage area shall be located on a hard or all-weather surface and arranged to permit reasonable inspection and access to all parts of the premises by fire, police, and City authorities and must be screened from adjacent properties.

p Drinking Establishments.

q Electronic Assembly.

r Flea market.

s Industrial dry cleaner.

t Industrial laundry.

u Lawn Mower and similar small equipment sales and repairs; provided, all repairs, materials and parts are stored within an enclosed building or on an all-weather surface screened from adjacent properties.

v Lumber yard.

w Machine shop/ welding shop/ metal furniture fabrication/ *heat treating/ Blacksmithing*; provided that; If this abuts residential, the area is screened by a minimum six foot tall opaque screen.

x Microwave tower.

y Monument sales.

z Outdoor Storage Yard for which lease space for the temporary storage of operable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable automobiles and trucks, provided any area for the purpose of providing lease space for outdoor storage must have an all-weather surface and be screened from adjacent properties and any public roadway.

aa Plumbing, heating and air conditioning supply houses with sheet metal duct fabrication allowed as an incidental use.

aa Pony riding ring, without permanent stables.

ab Printing press operations including newspaper presses catalogs and bindery.

ac Private clubs.

ad Radio transmission tower.

ae Rental Facilities, where the primary business use is the rental of space for events, training, and seasonal sales in exchange for monetary compensation. Occupants that operate a temporary sale shall still be required to obtain any necessary permits as regulated by the Haysville City Code.

af Restaurant Drinking Establishment.

ag Tattoo Parlors.

ah Tavern.

ai Television transmission tower.

aj Tool equipment rental with outside storage of rental items allowed provided that all units displayed are in operable condition, all maintenance is conducted inside a building, the storage is on a properly drained hard or all-weather surface, and loading/unloading of vehicles takes place off of public streets. Any unit or vehicle rated at over 30 horsepower will be stored in the rear and screened from view to at least six feet in height.

ak Outdoor theaters.

al Wholesale food commissary or catering establishment.

am Uses customarily incidental to any of the above uses when located on the same lot.

C. Conditional uses permitted. Businesses or shops in which products are manufactured, compounded, processed, assembled or treated, as listed below: or provided that all activities are conducted wholly within a completely enclosed building and outside storage completely screened from public view (See Section 702):

1. Ice cream manufacture.

2. Small aircraft supplies.

3. Truck body distributorship.

4. Wholesale auto supplies.

5. Wholesale bakery.

6. Wholesale candy and bakery.

7. Wholesale china.

8. Wholesale coffee, tea and spices.

9. Wholesale drugs.

10. Wholesale dry goods.

11. Wholesale electrical supplies.

12. Wholesale furniture.

13. Wholesale garden tools.

14. Wholesale glass distributors.

15. Wholesale hardware.

16. Wholesale household appliances.

17. Wholesale appliances.

18. Wholesale leather goods.

19. Wholesale paint and wallpaper.

20. Wholesale plumbing supplies.

21. Wholesale pump and engines distributor.

22. Wholesale service station supplies.

23. Wholesale welding supplies.

24. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

25. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including electroplating and manufacturing of similar products.

26. Blacksmith shop, welding, heat treating and machine shop.

27. Contractor's equipment storage yard or plant, retail sales of equipment commonly used by contractors.

28. Foundry casting lightweight nonferrous metal.

29. Laboratories, experimental or testing.

30. Cleaning and dying works and carpet and rug cleaning.

31. Manufacture, compounding, assembling or treatment of articles or merchandise from the following: previously treated feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, yarns, and paint not employing a boiling process.

32. The manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

33. The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, metal furniture, light sheet and tubular metal products, including heating and ventilating ducts and equipment, cornices, caves, small tool and die works and the like.

34. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, kilns fired only by electricity or gas.

35. Manufacture of musical instruments, toys, novelties and amusement devices.

36. Wholesale sheet metal and wholesale plumbing shops.

37. Small boat building.

38. Stone monument works.

39. Body shop.

40. Outdoor storage yards for the temporary storage of wrecked or otherwise inoperable vehicles, which are part of a business whose principal use is the providing of temporary outdoor storage of operable vehicles, boats, recreational vehicles and equipment, trailers and such. Such items shall be stored on an all-weather surface and be screened from adjacent properties and any public roadway.

41. Wireless telecommunication facilities (See Section 505).

D. Height regulations.

1. None.

E. Area regulations.

1. Lot area regulation.

aa Lot area to not be less than 6,000 square feet.

ab Maximum lot coverage including parking to be 100 percent.

F. Front yard.

1. In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum front yard shall be the same as the distance between the front lot line and the building or setback line shown on the plat.

2. In all other locations the setback shall be measured as 50 feet from the centerline of the street except within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

3. On corner lots where setbacks are not shown on a recorded plat the setback shall be measured as 50 feet from the centerline of the street except that within 350 feet of an intersection the setback shall be measured as 75 feet from the centerline of the street.

G. Side yard.

1. When zero lot line development is allowed or any portion of the building is more than 150 feet from a street, dedicated fire lanes shall be provided on rear yard of at least two sides of the building.

2. In all other cases, side yard shall be six feet or height divided by four whichever is greater.

3. Corner lots shall have at least minimum front yard setbacks on both sides abutting a street. When setback areas are shown in excess of the minimum setback requirements on recorded plats the greater setbacks shall be used.

H. Rear yard.

1. Accessory building shall not be located in any platted or recorded easement or alley. Where there is no platted alley they shall be located no closer than three feet of the rear lot line.

I. Parking and loading regulations. (See Section 500)

414 INDUSTRIAL; "F" LIGHT INDUSTRIAL DISTRICT

The following shall apply in all "F" Light Industrial Districts:

A. Uses permitted.

1. Any use specifically listed as a permitted use in "E" Heavy Commercial District, in conformance with the requirements of the regulations for this district.

2. Any of the following uses: provided that such use does not constitute a hazard or nuisance, including but not limited to, issues associated with fire, explosion, odor, dust, smoke, undue noise, excessive or unsupportable water use, emission of contaminants into public wastewater system, contaminants into sewer system, or vibration or other similar causes.

a Animal hospitals and kennels.

b Assembly and maintenance of oil rigging, agriculture implements and equipment.

c Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including electroplating and manufacturing of similar products.

d Automobile painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing or overhauling, tire retreading or recapping, battery manufacturing and the like.

e Building materials sales yard, including the sales of rock, sand, gravel and the like as an incidental part of the main business, but excluding concrete mixing plant unless enclosed in a building.

f Concrete and asphalt mixing plants.

g Construction Sales and Service, General; provided, all material on the premises of the outside storage area shall be arranged to permit reasonable inspection and access to all parts of the premises by fire, police and City authorities; located on an all-weather surface, and screened from adjacent properties and any public roadway.

h Distribution plants, parcel delivery, ice and cold storage plant, and bottling plant.

i Feed and fuel yard storage.

j Foundry casting lightweight nonferrous metal.

k Freighting or trucking yard or terminal.

l Grain storage and elevators.

m Industrial storage warehouse.

n Laboratories, experimental or testing.

o Landscaping services, including offices and the outdoor storage of material and equipment; provided that materials and equipment are prohibited in the front setback, located on an all-weather surface, and screened from adjacent properties and any public roadway. Rock, decorative pavers or statues, and any live plant materials shall not require all weather surface but shall be kept in an orderly manner and must still meet screening requirements.

p Laundry, cleaning and dyeing works and carpet and rug cleaning.

q Manufacture, repair or modification of air craft missile, related and allied equipment and component parts thereof, and allied and associated manufacturing, testing and research processes and functions.

r The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously treated prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, shell textiles, tobacco, wood, yards, and paint not employing a boiling process;

s The manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

t The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, metal furniture, light sheet and tubular metal products, including heating and ventilating ducts and equipment, cornices, caves, small tool and die works, and the like.

u The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, kilns fired only by electricity or gas.

v Manufacture of musical instruments, toys, novelties and amusement devises.

w Metal Recycling and Recycling of Primarily Metal Goods, provided any operation that is not entirely conducted within an enclosed building shall be required to place all items stored on an all-weather surface and must be screened from adjacent properties and any public roadway.

x Outdoor Storage Yard & Towing Storage Yard for the temporary storage of operable or inoperable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable or inoperable automobiles and trucks, provided any area for the purpose of providing space for outdoor storage must have an all-weather surface and be screened from adjacent properties and any public roadway.

y Poultry or rabbit dressing.

z Sheet metal and wholesale plumbing shops.

aa Small boat building.

ab Stone monument works.

ac Vehicle Restoration, General

ad Wholesale business, storage buildings and warehouses.

2. Uses customarily incidental to any of the above uses when located on the same lot.

3. Conditional uses.

a Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

b Wireless telecommunication facilities (See Section 505).

B. Height regulations.

1. None.

C. Area regulations.

1. Lot area regulation:

a Lot area to not be less than 6,000 square feet.

b Maximum lot coverage including parking may be 100 percent.

D. Front yard.

1. In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum front yard shall be the same as the distance between the front lot line and the building or setback line shown on the plat.

2. In all other location the setback shall be measured as 50 feet from the centerline of the street except within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

3. On corner lots where setbacks are not shown on a recorded plat the setback shall be measured as 50 feet from the centerline of the street except that within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

E. Side yard.

1. In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum front yard shall be the same as the distance between the side lot line and the building or setback line shown on the plat.

2. On corner lots where setbacks are not shown on a recorded plat the setback shall be measured as 50 feet from the centerline of the street except that within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

3. If zero lot line development is allowed or any portion of the building is more than 150 feet from a public street, the dedicated fire lanes will be provided on at least two sides of the building.

F. Rear yard.

1. Accessory building shall not be located in any platted or recorded easement or alley. Where there is no platted alley they shall be located no closer than three feet of the rear lot line.

G. Parking and loading regulations. (See Section 500)

415 INDUSTRIAL; "G" HEAVY INDUSTRIAL DISTRICT

In the "G" Heavy Industrial District, buildings and premises may be used for any lawful purpose subject to the following restrictions and to the following area and height regulations:

A. Uses Permitted: Any building or premises may be used for any purpose not in conflict with any ordinance of the city regulating nuisances or special hazards, including but not limited to, issues associated with fire, explosion, odor, dust, smoke, undue noise, excessive or unsupportable water use, emission of contaminants into public wastewater system, contaminants into sewer system, or vibration or other similar causes; provided, that no building or occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been approved by the commission:

1. Acid manufacture.

2. Cement, lime, gypsum, or plaster of paris manufacture.

3. Distillation of bones.

4. Explosives manufacture or storage.

5. Fat rendering.

6. Fertilizer manufacture.

7. Gas manufacture.

8. Garbage, offal or dead animal incineration, reduction.

9. Glue manufacture.

10. Petroleum refinery and wholesale storage.

11. Slaughter and dressing of animals and disposal of waste from such processing, but not including poultry and rabbit dressing.

12. Stockyards.

13. Wholesale storage above ground of gasoline or other petroleum products in car lots or larger quantities.

14. Conditional Uses.

    a Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

    b Wireless telecommunication facilities (See Section 505).

B. Height Regulations.

1. None.

C. Area Regulations.

1. Lot area regulations:

    a Lot area not to be less than 6,000 square feet.

    b Maximum lot coverage including parking can be 100 percent.

2. Front yard.

    a In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum front yard shall be the same as the distance between the front lot line and the building setback line shown on the plat.

b In all other locations the setback shall be measured as 50 feet from the centerline of the street except within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

c On corner lots where setbacks are not shown on a recorded plat the setback shall be measured as 50 feet from the centerline of the street except that within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

3. Side yard.

a In all locations where building lines or setback lines are shown on plats that have been approved by the commission and that are recorded in the office of the register of deeds of Sedgwick County the minimum side yard shall be the same as the distance between the side lot line and the building setback line shown on the plat.

b On corner lots where setbacks are not shown on a recorded plat the setback shall be measured as 50 feet from the centerline of the street except that within 350 feet of an intersection of an arterial street with another arterial street the measurement shall be 75 feet from the centerline.

c If zero lot line development is allowed or any portion of the building is more than 150 feet from a public street, dedicated fire lanes will be provided on at least two sides of the building.

4. Rear Yard.

a Buildings shall not be located in any platted or recorded easement or alley. Where there is no platted alley they shall be located no closer than three feet of rear lot line.

D. Parking and Loading Regulations. (See Section 500.)

416 PLANNED UNIT DEVELOPMENTS

A. PURPOSE. The purpose of the Planned Unit Development (PUD) Districts is to encourage innovation in residential, commercial and industrial development; to gain a more efficient use of land; to utilize new technologies in urban land development; and to provide for a greater variety and flexibility in type, design, and layout of buildings.

B. GENERAL PROVISIONS.

1. Application for a PUD may be made for land located in any of the established Haysville zoning districts.

2. A PUD shall be in general conformity with the provisions of the adopted comprehensive plan.

3. Whenever there is a conflict or difference between the provisions of this article and those of the other articles of this Ordinance or the Subdivision Regulations, the provisions of this article shall prevail for the development of land for PUDs. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in this ordinance.

C. TYPE OF PLANNED UNIT DEVELOPMENTS. The following types of planned unit developments may be established.

1. PUD-R Planned Residential District

2. PUD-C Planned Commercial District

3. PUD-I Planned Industrial District

PUDs may combine two or more types of uses into a single plan.

D. STANDARDS AND CONDITIONS. The following provisions apply to all PUD districts:

1. The tract must be a continuous parcel under one ownership or held jointly by two or more owners.

2. The applicant shall satisfy the commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within 18 months following approval of the final application by the governing body, and a minimum of 50 percent of the total planned construction shall be completed within a period of six years following such approval or the approval of the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the commission upon the showing of good cause by the developer.

E. PRE-APPLICATION CONFERENCE. A pre-application conference shall be held with the PUD subcommittee of the commission in order for the applicant to become acquainted with the planned unit procedures and related City requirements.

F. PLANNED UNIT DEVELOPMENT APPLICATION PROCEDURE. An application for a PUD shall constitute the filing of an application for a PUD District and shall be processed in the same manner prescribed for amending these zoning regulations. The same requirements for notice to property owners, advertisement of public hearing, protest petitions, and adoption by the governing body shall be required as in conventional zoning.

G. SUBMISSION AND REVIEW OF THE APPLICATION.

1. An applicant shall make application for the approval of the PUD to the commission. The applicant shall include, as part of the application, a preliminary development plan for the PUD.

2. The preliminary development plan shall include both, a development plan map and written statement, 15 copies of each.

3. The PUD map shall contain the following information:

   a Existing topography with contours at two foot intervals.

   b Areas subject to one hundred year flooding.

   c Proposed location of buildings and other structures, parking area, drives, walks, screening, drainage patterns and plan, public streets, and any existing/proposed easements.

   d Internal traffic circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way.

   e Proposed screening and landscaping features.

   f Areas that are to be conveyed, dedicated, or reserved as common open space.

   g Relationship of abutting land uses and zoning districts.

4. The PUD statement to accompany the map shall contain the following information:

   a An explanation of the character of the PUD.

   b A statement of the present ownership and legal description of all the land included within the PUD.

c Copies of any special agreements, conveyances, restrictions, or covenants that will govern the use, maintenance and continued protection of the PUD and any of its common open space areas.

d A statement of the anticipated residential density, the proposed total gross floor area, and the percentage of the development that is to be occupied by structures.

e As appropriate, a statement identifying the principal types of business and/or industrial uses that are to be included in the proposed development.

f Maximum height of all buildings.

g A statement of the objectives showing the relationship of the PUD to the Comprehensive Plan with respect to land use for various purposes, density of population, direction of growth, location and function of streets and other public facilities, and common open space for recreation or visual benefit or both.

h A time schedule for completion of the project or each phase thereof and improvements to be requested of the City and improvements to be made by the developer.

5. The applicant may submit any other information or exhibits the applicant deems pertinent in evaluation of the proposed PUD.

6. A filing fee of $90.00 shall accompany the application.

H. ACTION ON PRELIMINARY PUD PLAN.

1. Within sixty days after receiving the application, the commission shall review the application and hold a public hearing in accordance with state statute.

2. Within thirty days after the public hearing the commission shall prepare findings of fact with respect to the extent to which the preliminary PUD plan complies with the standards and conditions established, together with its recommendations to the governing body with respect to the action to be taken on the PUD plan. The commission may recommend approval, approval with contingencies, or disapproval.

3. The governing body, after a 14-day protest period, shall consider the commission's recommendation on the preliminary PUD plan.

a If the preliminary PUD is approved, the governing body shall adopt an ordinance approving the preliminary PUD plan, and establish a PUD District for the parcel or tract of land included in the preliminary PUD plan.

b If the preliminary PUD is disapproved, after following the necessary procedures as established by state statute, the applicant shall be furnished with a written statement of the reasons for disapproval of the plan.

4. In the case of approval, the applicant, within 15 days after receiving notification of the approval of the preliminary PUD plan, shall file with the County Register of Deeds a statement that such plan has been filed with the approving authority and has been approved and that such PUD is applicable to certain specifically legally-described land and that copies of said are on file with the City.

I. FINAL PUD PLAN CONTENTS AND APPROVAL.

1. Within six (6) months after approval of the preliminary plan, the applicant shall have the final plan prepared in conformance with the preliminary development plan. The final plan shall include:

a Construction drawings of all buildings to include: elevations, grading, and floor plans.

b Site plan.

c Drainage Plan.

d Landscape and screening plan showing--species and size of all plant material, areas to be seeded, etc.

e Copies of any dedications for easements or rights-of-way and restrictive covenants.

f Evidence that no lots, parcel or tract or dwelling unit in such development have been conveyed or leased prior to the recording of any restrictive covenants applicable to such PUD.

g Such bonds or guarantees and other documents that may have been required by the preliminary PUD plan pursuant to the provisions and procedures of the Subdivision Regulations.

h The final plan shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification by the landowner of the plan as tentatively approved does not:

i Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area, nor

j Increase by more than 10 percent the floor area proposed for non-residential use, nor

k Increase by more than five percent the total ground area covered by buildings nor involve a substantial change in the height of buildings, nor

l Substantially change the design of the plan so as to significantly alter, as determined by the commission:

i. Pedestrian or vehicular traffic flow.

ii. The juxtaposition of different land uses.

iii. The relation of open space to residential development.

iv. The proposed phasing of construction.

2. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications on location and design of streets or facilitates for water, storm water, sanitary sewers or other public facilities.

In the event a public hearing is not required for final approval and the application of final approval has been filed, together with all drawings, specifications and other documents in support thereof, the commission shall, within a reasonable period of time of such filing, recommend that such plan be given final approval and forward its recommendation to the governing body for its final approval.

3. In the event the final plan submitted contains substantial changes from the approved preliminary plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this article for original approval.

4. In the event that a plan or section hereof is given final approval and thereafter the landowner shall abandon said plan or section, he shall so notify the city thereof in writing. In the event the landowner shall fail to commence the PUD within 18 months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the commission upon written application by the landowner.

J. ENFORCEMENT AND MODIFICATION. To ensure the mutual interest of the resident and owners of the PUD and of the public, the enforcement and modification of the provisions of the Plan, as finally approved--whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions.

1. Enforcement:

a Enforcement by the City covers the provisions of the plan relating to:

i. The use of land and the use, bulk and location of buildings and structures.

ii. The quality and location of common space.

iii. The intensity of use or the density of residential units.

2. Enforcement by the Residents and Owners cover any additional items not listed in item (a) above.

3. Modification:

a A PUD District ordinance or an approved preliminary or final PUD plan may be amended by the governing body after public hearing as outlined in Section 416.

b No changes in the development plan that are approved under this ordinance are to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the PUD, and all rights to enforce these covenants against any changes permitted are expressly reserved.

All enforcement and modification proceedings shall be subject to the provisions provided for by state statute.

K. PLATTING. For unplatted tracts or tracts being replatted, the approval of the

preliminary PUD shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. The final plat shall be in accordance with the Subdivision Regulations and may be submitted with or incorporated with the final development plan. The final development plan and the final plat may be reviewed by the commission concurrently.

417 "P-O" PROTECTIVE OVERLAY DISTRICT

A. PURPOSE. The protective overlay district may be applied in combination with any base zoning district. By tailoring use or property development standards to individual projects or specific properties, the protective overlay district is intended to:

1. ensure compatibility among incompatible or potentially incompatible land uses;

2. ease the transition from one zoning district to another;

3. address sites or land uses with special requirements; and

4. guide development in unusual situations or unique circumstances.

B. USE AND PROPERTY DEVELOPMENT STANDARDS. The protective overlay district, can be used to modify and restrict the use and property development standards of an underlying base zoning district. All requirements of a protective overlay district are in addition to and supplement all other applicable standards and requirements of this Code. Restrictions and conditions imposed by a protective overlay district shall be limited to the following:

1. prohibiting otherwise permitted or conditional uses and accessory uses; or making an otherwise permitted use a conditional use;

2. decreasing the number or average density of dwelling units that may be constructed on the site;

3. increasing minimum lot size or lot width;

4. increasing minimum setback requirements;

5. restrictions on access to abutting properties and nearby roads, including specific design features; and

6. any other specific development standards required or authorized by this Code.

C. METHOD OF ADOPTION. Restrictions imposed through a protective overlay district are considered part of this zoning code text and accompanying map. All property included in a protective overlay district shall be identified on the Zoning Map by adding the letters "P-O" and a number to the base zoning district symbol. The number shall be assigned when the application is filed and numbers shall run consecutively beginning with number 1. This ordinance zoning or rezoning property to the protective overlay district shall specifically state the modifications imposed pursuant to Section 417B of this Code. The restrictions imposed shall be considered part of the text of this Code, and a violation of the restrictions shall be a violation of this Code.

D. EFFECT OF PROTECTIVE OVERLAY DESIGNATION. When the Protective overlay zoning designation is applied in combination with a base zoning district it shall always be considered to result in a more restrictive designation than if the base district did not have the protective overlay classification. In the event that the protective overlay designation was not originally requested as part of the rezoning application, but instead is added during the staff review or public hearing process, re-notification and re-advertisement of the requested zoning change shall not be required.

418 "HD-O" ORIGINAL TOWN HISTORIC OVERLAY DISTRICT

A. PURPOSE. The Original Town Historic Overlay District (HD-O) is intended to accommodate development and redevelopment within the area recognized as the Original Town of Haysville, while recreating the historical significance and unique qualities of the area. The design review provisions applicable within the HD-O are intended to preserve and recreate the area's special historic character. The HD-O district is an overlay district; property within the district shall comply with the overlay district regulations of this section and the standards of the underlying zoning district. In the case of conflict between the regulations in this section and those of the underlying zoning district, the regulations in this section shall prevail.

B. APPLICATION AREA. The officially recognized Original Town Historic Overlay District shall be classified as "District – HD-O – Historic District," and shall be used henceforth for purposes of recognizing all structures and real estate within the "Original Town" as part of a zoning overlay district. The official zoning map of the City of Haysville, Kansas shall be amended by this ordinance to clearly show the overlay area. Such overlay district shall consist of the following parcels of property:

1. Haysville Town Site (Original Town Plat);

2. Hays' 1st Addition;

3. 1st Masonic Addition;

4. W.E. Blaine 2nd Addition;

5. Solar Addition;

6. Lee's Addition;

7. Metes and Bounds parcel facing Grand immediately to the northeast of the Haysville Town Site and generally having the dimensions of 140 feet by 220 feet; and

8. Metes and Bounds parcel facing Main Street immediately south of the Solar Addition continuing to the Southern City Limits.

C. USE REGULATIONS. The use regulations of this overlay district shall supplement and be in addition to the use regulations of the underlying districts. However, whenever an actual conflict arises between the language of the use regulations governing the underlying district and the language of this historic overlay district, the use regulations of this overlay district shall prevail over the underlying districts.

1. Permitted Uses. The following uses shall be allowed in the HD-O district. These additional uses are intended to supplement those uses permitted by the regulations of the underlying district(s) that are not otherwise specifically included in subsections (2) or (3) as set forth below:

   a Bed and Breakfast.

   b Blacksmith Shop.

   c Churches.

   d Farm and Art Market

   e Museum.

   f Public Park, playgrounds and community buildings.

2. Conditional Uses. The following uses shall be allowed only as a conditional use in the HD-O district, regardless if said uses are stated as permitted uses in the underlying districts:

   a Antique and Art Shop.

   b Printing press operations including newspaper presses, catalogs and bindery.

c Restaurant, including catering as an incidental use.

d Restaurant Club.

3. Prohibited Uses. The following uses are explicitly prohibited in the HD-O district:

a Animal Hospitals.

b. Apartment or condominiums.

c. Appliance store.

d. Automatic Teller Machine.

e. Automobile repair shop.

f. Automobile retail sales and related parts and accessory sales.

g. Automobile service center stations and related parts and accessory sales.

h. Automobile, motor home, and boat rental.

i. Beauty parlor.

j. Blueprinting or Photostatting.

k. Business or commercial schools.

l. Carwash.

m. Catering shops.

n. Cigar store.

o. Clinic, medical or dental for human treatment.

p. Clothes cleaning agency, pressing establishment or dry cleaning establishments using non-flammable agents, employing not more than two persons engaged in dry cleaning work.

q. Commercial fertilizer sales.

r. Commercial Storage Warehouses.

s. Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

t. Dry cleaners.

u. Electronic assembly.

v. Frozen food lockers--no slaughtering.

w. Furrier store.

x. Health club or spa.

y. Hospitals and Sanitariums.

z. Ice dealers, if no ice manufacturing is involved as a major enterprise.

aa. Ice rink.

bb. Laboratories, medical and nondestructive testing.

cc. Launderette.

dd. Liquor and malt beverage store.

ee. Medical, dental and optical laboratories.

ff. Microwave tower.

gg. Monument sales.

hh. Mortuary and funeral home.

ii. New or used automobile, truck and travel trailer sales.

jj. Nursing homes and skilled nursing centers.

kk. Office Supply store.

ll. Pawn shop.

mm. Pet shop or taxidermist, including small animal grooming.

nn. Plumbing, heating and air-conditioning supply houses with sheet metal duct fabrication allowed as an incidental use.

oo. Public utility stations and/or substations.

pp. Radio studios.

qq. Radio transmission tower.

rr. Roller rink.

ss. Second hand store.

tt. Sporting good store.

uu. Television studios.

vv. Tool equipment rental with outside storage of rental items.

ww. Upholstering shop.

xx. Vending machines and newspaper stands displayed outside permanently.

yy. Wholesale food commissary.

C. HEIGHT REGULATIONS. No building shall exceed two stories or 35 feet; except a church steeple may extend beyond this height.

D. AREA REGULATIONS.

1. Lot Area Regulations:

   a The minimum lot size requirements shall be waived.

   b The minimum lot width requirement shall be waived.

2. Setbacks:

   a The minimum front setback shall be 35 feet from the centerline of the street.

E. SPECIAL PARKING REGULATIONS. The requirements of Section 500 shall be waived.

F. DESIGN REVIEW PROCEDURES.

1. Applicability. No new construction, nor alterations to building exteriors, including painting, nor alterations to fences, grounds or temporary on-site signs may be made, and no permits involving alterations to building exteriors, or permits for signs, sidewalks, driveways or demolition shall be issued by the Public Works Department for any structure or site located wholly or partially within the HD-O district until an application for such permit has been reviewed for compliance with the design standards of this article and approved by the Public Works Director, or his or her designee, with the concurrence of the Historic Committee.

2. Application. An application for a permit with the HD-O district shall be submitted in a form required by the Historic District Committee, as such committee is established in Chapter 1 of the Haysville Municipal Code. A complete application should include, as necessary, to-scale drawings, elevations, sections, relevant plans of site and/or immediate environs if appropriate, and shall indicate materials and colors to be used, as to conduct an adequate review of the application.

3. Action. After reviewing the completed application, the Public Works Director, or his or her designee, with the concurrence of the Historic Committee shall approve, approve with conditions or modifications, or deny the request, in accordance with the design standards of this article. A property owner in the HD-O may appeal the decision of the Director to the Board of Zoning Appeals.

4. Time limit on Action. If within thirty days from the date of receipt of a complete application by the Public Works Director, no action has been taken on the application, the Public Works Department may issue the necessary permits and the project may proceed. This time limit may be waived by mutual consent of the applicant and staff.

H. DESIGN STANDARDS

1. General.

a New Buildings, Reproductions and Alterations should be respectful of the character of the original town of Haysville. All building designs should be compatible with the major elements of the 1890-1910 eras of the prairie plains.

b Metal windows and doors should be anodized or properly primed and enameled.

c Permanent fences should avoid wire materials whenever possible.

2. Standards for Rehabilitation and Remodeling.

a All construction, remodeling or rehabilitation of exteriors should ensure the visual integrity of the building, and be compatible with the overall architectural character of the district.

b Additions to buildings should be compatible in appearance by coordinating style, materials, scale and detail with the original buildings in the district.

c Accessory buildings should generally be compatible with the other structures on the street and be subject to these guidelines.

d Existing doors and windows may be replaced with new products of design and/or materials similar to those which existed at the time of passage of this Code.

2. Standards for New Construction, Reconstruction and Reproduction.

a All buildings should be set back from the street uniformly to present a continuous façade line along the street, except that minor recesses or projections for entries and similar elements may be acceptable.

b Mechanical or electrical equipment and trash receptacles should be hidden or screened from street level view.

3. Signs. Signage within the HD-O district shall be subject to the provisions of Chapter 16B Article 2 of the Code of the City of Haysville, as well as the following requirements as reviewed and approved by the Historic District Committee.

   a All signs, including interior and exterior window signs, must be approved as to design, colors, materials, placement, method of attachment, and method of illumination (if applicable).

   b Signs shall be designed and placed so as to appear as an integral part of the building design, in proportion to the structure and environment, and to respect neighboring properties within the HD-O district.

   c Signs should be designed with appropriateness relative to the services of the establishments served.

   d Signs should be maintained if they are determined to be an original part of the building or if they have acquired significance by virtue of their age, design, materials, craftsmanship, or historical significance.

I. EXCEPTIONS AND MODIFICATIONS. The design standards in this article may be modified or waived by the Historic District Committee with the concurrence of the Planning Commission, to allow for alterations that are required in order to maintain the continued functional viability of existing uses, or in extraordinary situations of development characteristics, economic hardship, or other circumstances, provided that the purposes and intent of these Standards are maintained through such interpretation.

J. EMERGENCY REPAIRS. The Director of Public Works may waive the standards and review procedures of this article in instances in which emergency repairs are required, provided that subsequent repairs comply with this article.

K. CONFLICTS WITH OTHER CODE PROVISIONS. No section of this article shall be construed to compel alterations that will conflict with any health or safety codes, or prohibit any alterations that are required to bring buildings into compliance with the Building Code.

419 "BC-O" BROADWAY CORRIDOR OVERLAY DISTRICT

A. PURPOSE. The Broadway Corridor Overlay District is intended to address transportation, land use and site development in the South Broadway Corridor. The overlay district is a tool to help guide the quality of land development in the corridor and increase long-term economic viability through consistent land use, architecture, signage, landscaping and other site design features. The BC-O district is an overlay district; property within the district shall comply with the overlay district regulations of this section and the standards of the underlying zoning district. In the case of conflict between the regulations in this section and those of the underlying zoning district, the regulations in this section shall prevail.

Three special Subdistricts of the BC-O district are recognized. These subdistricts are special in that they have unique differences from the remaining BC-O district; however, they are consistent with the above stated purpose and intent of the BC-O. These subdistricts shall be classified as BC-O/R, BC-O/C, and BC-O/I. These subdistricts are intended to reflect the residential, commercial, and industrial uses in the corridor.

B. APPLICATION AREA. The officially recognized Broadway Corridor Overlay District shall be classified as "BC-O – Broadway Corridor Overlay District," and the official zoning map of the City of Haysville, Kansas shall be amended by this ordinance to clearly show the overlay area and subdistricts.

C. USE REGULATIONS. The use regulations of this overlay district shall supplement and be in addition to the use regulations of the underlying districts. However, whenever an actual conflict arises between the language of the use regulations governing the underlying district and the language of this overlay district, the use regulations of this overlay district shall prevail over the underlying districts.

1. BC-O Permitted Uses. The following uses shall be allowed in the BC-O district. These additional uses are intended to supplement those uses permitted by the regulations of the underlying district(s) that are not otherwise specifically included in subsection (2) as set forth below:

   a Any use listed as a permitted use in the "OC" Office Commercial, except that such uses must comply with the regulations of that district.

   b Any use listed as a permitted use in the "DD" Hotel and Motel, except that such uses must comply with the regulations of that district.

c Lawn Mower and similar small equipment sales and repairs; provided, all repairs, materials and parts are stored within an enclosed building or on an all-weather surface screened from adjacent properties.

d Liquor and Malt Beverage store.

e Rental Facilities, where the primary business use is the rental of space for events, training, and seasonal sales in exchange for monetary compensation. Occupants that operate a temporary sale shall still be required to obtain any necessary permits as regulated by the Haysville City Code.

2. Prohibited Uses. The following uses are explicitly prohibited in the BC-O district:

a Amusement enterprises, including billiard or pool hall, bowling alley, boxing arena, dance hall and games of skill and science.

b Animal feed store.

c Animal hospitals and kennels.

d Assembly and maintenance of oil rigging, agriculture implements and equipment.

e Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including electroplating and manufacturing of similar products.

f Auction house.

g Automobile painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing or overhauling, tire retreading or recapping, battery manufacturing and the like.

h Baseball or football stadiums and sports arenas.

i Building materials sales yard, including the sales of rock, sand, gravel and the like.

j Carpenter or cabinet shop

k Class “A” Club.

l Class “B” Club.

m Commercial dry cleaning and/or laundry establishments.

n Commercial storage warehouse also including units available for rent and storage of property by individuals.

o Concrete and asphalt mixing plants.

p Construction Sales and Service.

q Distribution plants, parcel delivery, ice and cold storage plant, and bottling plant.

r Electronic Assembly.

s Feed and fuel storage yard.

t Feed, seed, and commercial fertilizer sales.

u Flea market.

v Foundry casting lightweight nonferrous metal.

w Freighting or trucking yard or terminal.

x Grain storage and elevators.

y Industrial dry cleaner.

z Industrial laundry.

aa Industrial storage warehouse.

ab Laboratories, experimental or testing.

ac Landscape services.

ad Laundry, cleaning and dyeing works and carpet and rug cleaning.

ae Lumber yard.

af Machine shop/ welding shop/ metal furniture fabrication/ heat treating/ Blacksmithing.

ag Manufacture, repair or modification of air craft missile, related and allied equipment and component parts thereof, and allied and associated manufacturing, testing and research processes and functions.

ah The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously treated prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, shell textiles, tobacco, wood, yards, and paint not employing a boiling process.

ai The manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

aj The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, metal furniture, light sheet and tubular metal products, including heating and ventilating ducts and equipment, cornices, caves, small tool and die works, and the like.

ak The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, kilns fired only by electricity or gas.

al Manufacture of musical instruments, toys, novelties and amusement devises.

am Metal Recycling and Recycling of Primarily Metal Goods.

an Microwave tower.

ao Monument sales.

ap Outdoor Storage Yard for which lease space for the temporary storage of operable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable automobiles and trucks.

aq Outdoor Storage Yard & Towing Storage Yard for which lease space for the temporary storage of operable or inoperable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable or inoperable automobiles and trucks.

ar Plumbing, heating and air conditioning supply houses with sheet metal duct fabrication allowed as an incidental use.

as Pony riding ring, without permanent stables.

at Poultry or rabbit dressing.

au Printing press operations including newspaper presses catalogs and bindery.

av Private clubs.

aw Radio transmission tower.

ax Restaurant Drinking Establishment.

ay Sheet metal and wholesale plumbing shops.

az Small boat building.

ba Stone monument works.

bb Tattoo Parlors.

bc Tavern.

bd Television transmission tower.

be Tool equipment rental with outside storage of rental items.

bf Outdoor theaters.

bg Vehicle restoration.

bh Wholesale business, storage buildings and warehouses.

bi Wholesale food commissary or catering establishment.

3. BC-O/R Permitted Uses. The following uses shall be allowed in the BC-O/R district. These additional uses are intended to supplement those uses permitted by the regulations of the underlying district(s) that are not otherwise specifically included in subsection (4) as set forth below:

a. Abstract and title companies.

b. Advertising agencies.

c. Animal grooming, small animals.

d. Artist, craft and hobby supply store.

e. Artist studios.

f. Bakery goods shop, no drive-thru.

g. Barber shop or beauty parlor, including services for hair, nails, and tanning.

h. Book store.

i. Camera shop and supplies.

j. Drug store, pharmacy, or apothecary.

k. Florists.

l. Grocery stores, provided they do not exceed 30,000 sq/ft.

m. Jewelry and jewelry repair, not as an accessory use to a pawn shop.

n. Key shop.

o. Parks, playgrounds, and community buildings owned and/or operated by the City.

p. Picture framing shop.

q. Newsstand.

r. Real estate offices.

s. Religious offices and headquarters.

t. Second hand store.

u. Shoe repair shop.

v. Tailor shop.

w. Tire servicing, not as an accessory use to automobile repair or service.

4. BC-O/R Prohibited Uses. The following uses are explicitly prohibited in the BC-O/R district:

a. Amusement enterprises, including billiard or pool hall, bowling alley, boxing arena, dance hall and games of skill and science.

b. Animal feed store, wholly within a building or within a suitable enclosure to prevent obnoxious or nuisance conditions.

c. Auction house.

d. Automobile retail sales and related parts and accessory sales.

e. Automobile and trailer sales area.

f. New or used automobile, truck and travel trailer sales with outside storage of vehicles for sale.

g. Baseball or football stadiums and sports arenas.

h. Carpenter or cabinet shop.

i. Class “A” Club.

j. Class “B” Club.

k. Commercial dry cleaning and/or laundry establishments.

l. Commercial storage warehouse also including units available for rent and storage of property by individuals.

m. Construction Sales and Service.

n. Drinking Establishments.

o. Electronic Assembly.

p. Flea market.

q. Industrial dry cleaner.

r. Industrial laundry.

s. Lawn Mower and similar small equipment sales and repairs.

t. Lumber yard.

u. Machine shop/ welding shop/ metal furniture fabrication/ heat treating/ Blacksmithing.

v. Microwave tower.

w. Monument sales.

x. Outdoor Storage Yard for which lease space for the temporary storage of operable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable automobiles and trucks.

y. Plumbing, heating and air conditioning supply houses with sheet metal duct fabrication allowed as an incidental use.

z. Pony riding ring..

aa. Printing press operations including newspaper presses catalogs and bindery.

ab. Private clubs.

ac. Radio transmission tower.

ad. Rental Facilities, where the primary business use is the rental of space for events, training, and seasonal sales in exchange for monetary compensation.

ae. Restaurant Drinking Establishment.

af. Tattoo Parlors.

ag. Tavern.

ah. Television transmission tower.

ai. Tool equipment rental with outside storage of rental items.

aj. Outdoor theaters.

ak. Wholesale food commissary or catering establishment.

5. BC-O/C Permitted Uses. The following uses shall be allowed in the BC-O/C district. These additional uses are intended to supplement those uses permitted by the regulations of the underlying district(s) that are not otherwise specifically included in subsection (6) as set forth below:

a Amusement enterprises, including billiard or pool hall, bowling alley, boxing arena, dance hall and games of skill and science.

b Animal feed store, wholly within a building or within a suitable enclosure to prevent obnoxious or nuisance conditions.

c Animal hospitals and kennels.

d Auction house.

e Automobile repair shop.

f Automobile retail sales and related parts and accessory sales.

g Automobile and trailer sales area: Provided, that any incidental repair of automobiles or trailers shall be conducted and confined wholly within a fenced area and the storage is on a properly drained hard or all weather surface.

h New or used automobile, truck and travel trailer sales with outside storage of vehicles for sale; provided that: All vehicles displayed are in operable condition; no part/piece storage is permitted outside; all maintenance (excluding washing/waxing) is conducted inside a building; the storage is on a properly drained hard or all-weather surface; and loading/unloading of vehicles takes place off of public streets.

i Automobile painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing or overhauling, tire retreading or recapping, battery manufacturing and the like.

j Baseball or football stadiums and sports arenas.

k Carpenter or cabinet shop, if conducted wholly within a completely enclosed building.

l Class “A” Club.

m Class “B” Club.

n Commercial dry cleaning and/or laundry establishments.

o Commercial storage warehouse also including units available for rent and storage of property by individuals.

p Construction Sales and Service, Limited; provided, all material on premises of the outside storage area shall be located on a hard or all-weather surface and arranged to permit reasonable inspection and access to all parts of the premises by fire, police, and City authorities and must be screened from adjacent properties.

q Construction Sales and Service, General; provided, all material on the premises of the outside storage area shall be arranged to permit reasonable inspection and access to all parts of the premises by fire, police and City authorities; located on an all weather surface and must be screened from adjacent properties.

r Distribution plants, parcel delivery, ice and cold storage plant, and bottling plant.

s Drinking Establishments.

t Electronic Assembly.

u Feed and fuel yard storage.

v Feed, seed, and commercial fertilizer sales.

w Flea market.

x Grain storage and elevators.

y Industrial dry cleaner.

z Industrial laundry.

aa Landscaping services, including offices and the outdoor storage of material and equipment; provided that materials and equipment are prohibited in the front setback and are stored on an all weather surface, screened from any lesser zoning district. Rock, decorative pavers or statues, and any live plant materials shall not require all weather surface but shall be kept in an orderly manner and must still meet screening requirements.

ab Lawn Mower and similar small equipment sales and repairs; provided, all repairs, materials and parts are stored within an enclosed building or on an all weather surface screened from adjacent properties.

ac Lumber yard.

ad Machine shop/ welding shop/ metal furniture fabrication/ heat treating/ Blacksmithing; provided that; If this abuts residential, the area is screened by a minimum six foot tall opaque screen.

ae Microwave tower.

af Monument sales.

ag Outdoor Storage Yard for which lease space for the temporary storage of operable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable automobiles and trucks, provided any area for the purpose of providing lease space for outdoor storage must have an all-weather surface and be screened from adjacent properties and any public roadway.

ah Plumbing, heating and air conditioning supply houses with sheet metal duct fabrication allowed as an incidental use.

ai Pony riding ring, without permanent stables.

aj Printing press operations including newspaper presses catalogs and bindery.

ak Private clubs.

al Radio transmission tower.

am Rental Facilities, where the primary business use is the rental of space for events, training, and seasonal sales in exchange for monetary compensation. Occupants that operate a temporary sale shall still be required to obtain any necessary permits as regulated by the Haysville City Code.

an Restaurant Drinking Establishment.

ao Stone monument works.

ap Tattoo Parlors.

aq Tavern.

ar Television transmission tower.

as Tool equipment rental with outside storage of rental items allowed provided that all units displayed are in operable condition, all maintenance is conducted inside a building, the storage is on a properly drained hard or all-weather surface, and loading/unloading of vehicles takes place off of public streets. Any unit or vehicle rated at over 30 horsepower will be stored in the rear and screened from view to at least six feet in height.

at Outdoor theaters.

au Vehicle restoration, general.

av Wholesale business, storage buildings and warehouses.

aw Wholesale food commissary or catering establishment.

6. BC-O/C Prohibited Uses. The following uses are explicitly prohibited in the BC-O/C district:

a Assembly and maintenance of oil rigging, agriculture implements and equipment.

b Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including electroplating and manufacturing of similar products.

c Building materials sales yard, including the sales of rock, sand, gravel and the like as an incidental part of the main business, but excluding concrete mixing plant unless enclosed in a building.

d Concrete and asphalt mixing plants.

e Foundry casting lightweight nonferrous metal.

f Freighting or trucking yard or terminal.

g Industrial storage warehouse.

h Laboratories, experimental or testing.

i Laundry, cleaning and dyeing works and carpet and rug cleaning.

j Manufacture, repair or modification of air craft missile, related and allied equipment and component parts thereof, and allied and associated manufacturing, testing and research processes and functions.

k The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously treated prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, shell textiles, tobacco, wood, yards, and paint not employing a boiling process;

l The manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

m The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, metal furniture, light sheet and tubular metal products, including heating and ventilating ducts and equipment, cornices, caves, small tool and die works, and the like.

n The manufacture of pottery and figurines or other similar ceramic products.

o Manufacture of musical instruments, toys, novelties and amusement devises.

p Metal Recycling and Recycling of Primarily Metal Goods, provided any operation that is not entirely conducted within an enclosed building shall be required to place all items stored on an all-weather surface and must be screened from adjacent properties and any public roadway.

q Outdoor Storage Yard & Towing Storage Yard for which lease space for the temporary storage of operable or inoperable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable or inoperable automobiles and trucks, provided any area for the purpose of providing lease space for outdoor storage must have an all-weather surface and be screened from adjacent properties and any public roadway.

r Poultry or rabbit dressing.

s Sheet metal and wholesale plumbing shops.

t Small boat building.

7. BC-O/I Permitted Uses. The following uses shall be allowed in the BC-O/I district. These additional uses are intended to supplement those uses permitted by the regulations of the underlying district(s) that are not otherwise specifically included in subsection (2) as set forth below:

a Commercial storage warehouse also including units available for rent and storage of property by individuals.

b Landscaping services, including offices and the outdoor storage of material and equipment; provided that materials and equipment are prohibited in the front setback and are stored on an all weather surface, screened from any lesser zoning district. Rock, decorative pavers or statues, and any live plant materials shall not require all weather surface but shall be kept in an orderly manner and must still meet screening requirements.

c Machine shop/ welding shop/ metal furniture fabrication/ heat treating/ Blacksmithing; provided that; If this abuts residential, the area is screened by a minimum six foot tall opaque screen.

d Outdoor Storage Yard & Towing Storage Yard for which lease space for the temporary storage of operable or inoperable commercial trucks or trailers and recreational vehicles or equipment, boats, campers and operable or inoperable automobiles and trucks, provided any area for the purpose of providing lease space for outdoor storage must have an all-weather surface and be screened from adjacent properties and any public roadway.

D. SPECIAL PARKING REGULATIONS. The requirements of Section 500 shall pertain.

E. LANDSCAPE REGULATIONS. The requirements of Section 501 shall pertain.

F. SIGN REGULATIONS. Signage within the BC-O district and subdistricts shall be subject to the provisions of Chapter 16B Article 2 of the Code of the City of Haysville, as well as the following requirements.

1. Billboards and off-site advertising signs are prohibited in the BC-O district and all subdistricts of the BC-O district.

2. All signs, including interior and exterior window signs, must be approved as to design, colors, materials, placement, method of attachment, and method of illumination (if applicable).

G. DESIGN REVIEW PROCEDURES.

1. Applicability. No new construction, nor alterations to building exteriors, including painting, nor alterations to fences, grounds or temporary on-site signs may be made, and no permits involving alterations to building exteriors, or permits for signs, sidewalks, driveways or demolition shall be issued by the Public Works Department for any structure or site located wholly or partially within the BC-O district and subdistricts until an application for such permit has been reviewed for compliance with the design standards of this article and the South Broadway Corridor Plan concepts and approved by Zoning Administrator, or his or her designee.

2. Application. An application for a permit with the BC-O district and subdistricts shall be submitted in a form required by the Planning Department. A complete application should include, as necessary, to-scale drawings, elevations, sections, relevant plans of site and/or immediate environs if appropriate, and shall indicate materials and colors to be used, as to conduct an adequate review of the application.

3. Action. After reviewing the completed application, the Zoning Administrator shall approve, approve with conditions or modifications, or deny the request, in accordance with the design standards of this article. Any property owner in the BC-O district and subdistricts may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals.

   a. It is during this review that the Zoning Administrator shall verify that improvements or modifications are consistent with the land use, architecture (design standards), signage, parking/access, landscaping and any other concepts from the South Broadway Corridor Plan.

4. Time limit on Action. If within thirty days from the date of receipt of a complete application, no action has been taken on the application, the Public Works Department shall issue the necessary permits and the project shall proceed. This time limit may be waived by mutual consent of the applicant and staff.

H. DESIGN STANDARDS

1. General.

a New buildings, new accessory structures, and signage should be consistent with the recommendations of the South Broadway Corridor Plan. Consistency with plans will be determined during the review by the Zoning Administrator.

2. Standards for Remodeling and Expansion of Existing Buildings.

a. All construction, remodeling or rehabilitation of exteriors should be compatible in appearance with the South Broadway Corridor Plan.

b. Accessory buildings should generally be compatible with the other structures on the street and are subject to these guidelines.

c. Expansions or Additions to buildings in existence before August 1, 2012 may be allowed an administrative waiver from additional exterior building material requirements reflected in the plan. Any waiver requested from the requirements shall be reflected and noted on the site plan submitted for review.

I. EMERGENCY REPAIRS. The Director of Public Works may waive the standards and review procedures of this article in instances in which emergency repairs are required, provided that subsequent repairs comply with this article.

J. CONFLICTS WITH OTHER CODE PROVISIONS. No section of this article shall be construed to compel alterations that will conflict with any health or safety codes, or prohibit any alterations that are required to bring buildings into compliance with the building code.

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ARTICLE 5. SITE DEVELOPMENT REGULATIONS

500 OFF STREET PARKING REQUIREMENTS

A. Scope and Application. In any zoning district, all structures built and all uses established after the effective date of this article, and, when an existing structure is expanded, off-street parking shall be provided in accordance with the following regulations.

1. Scope of regulations:

a <u>New construction and new uses:</u> For all buildings and structures erected, and all uses of land established after the effective date of this article, accessory off-street parking facilities shall be provided in accordance with the provisions contained herein. However, where a building permit has been issued prior to the effective date of this article, and provided that construction has commenced within six months of such effective date and diligently prosecuted to completion, parking facilities in the amounts required for the issuance of said building permit may be provided in lieu of any different amounts required by this article.

b <u>Expansion of a building or use:</u> When the intensity of use of any building, structure, or premises shall be increased, additional parking facilities shall be provided as follows:

i. Whenever a building, structure or use existing prior to the effective date of this article is enlarged to the extent of less than 50 percent in floor area, the addition or enlargement shall comply with the parking requirements set forth herein.

ii. Whenever a building, structure or use existing prior to the effective date of this article is enlarged by one or more additions, the sum total of which increases the floor area to the extent of 50 percent or more, the uses contained within the original building or structure and all enlargements shall thereafter comply with the parking requirements set forth herein.

iii. Whenever an existing single-family dwelling with more than 950 square feet in floor area has less than two parking spaces, it shall be permitted to expand by not more than 25 percent in floor area without having to comply with the off-street parking requirements set forth herein.

c Change of use: Whenever a use existing prior to the effective date of this article shall be changed to a new use, parking facilities shall be provided as required for such new use.

2. Existing parking facilities: Accessory off-street parking facilities in existence on the effective date of this article, and located on the same zoning lot as the building or use served, shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new building or use.

3. Permissive parking facilities: Nothing in this article shall be deemed to prevent the establishment of additional off-street parking facilities to serve any existing building or use provided that all regulations herein governing the location, design, and operation of such facilities are satisfied.

4. Damage or destruction: Whenever a building or use existing prior to the effective date of this article, and for which the required number of parking spaces is not provided, is damaged or destroyed by fire, tornado or other natural causes to the extent of 50 percent or more of its fair market value, shall be required to meet the off-street parking requirements and standards for that portion proposed to be rebuilt.

B. Off-street parking requirements.

1. General requirements: The following requirements shall govern in the design, location and number of off-street parking and stacking spaces.

a Computation: When determination of the number of off-street parking and stacking spaces results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one space.

b Utilization: Off-street parking and stacking facilities provided for the uses hereinafter listed shall be reserved exclusively for the parking of motor passenger vehicles, in operating condition, of patrons, occupants, visitors or employees of such uses.

c Computing off-street parking: In computing the floor area to determine the requirements for off-street parking, such computations for a structure shall exclude:

i. The exterior wall width of the structure;

ii. Elevator shafts;

iii. Common courts or lobby areas;

iv. Mechanical equipment rooms;

v. Stairways;

vi. Restrooms;

vii. Basements, except those portions not used exclusively for service to the structure;

viii. Balconies;

ix. Incidental storage areas including but not limited to janitorial rooms, supply rooms, etc.

The building inspector shall determine then net floor area of the structure and shall require off-street parking as specified for the use set forth in the applicable district regulations.

d Shared parking provisions: In the case of mixed uses, the off-street parking and stacking spaces required shall equal the sum of the requirements of the various uses computed separately, provided all regulations governing the location of accessory off-street parking and stacking spaces in relation to the uses served are adhered to.

e There shall be no parking in established easements, and no vehicle including recreational vehicles shall be parked so as to be located upon or overhang onto an established easement.

2. Specific requirements:

a Open and enclosed parking: Accessory off-street parking and stacking spaces may be open to the sky or enclosed within a garage.

b Surfacing: All off-street parking and stacking spaces, aisles and drives shall be graded and paved with a hard surface, except areas determined by the zoning administrator to be in a flood zone as set forth within the currently adopted FIRM may use an all-weather surface which shall be maintained in good condition.

c Location: Off-street parking and stacking spaces, aisles and drives shall be located as follows:

i. General

A. All required off-street parking and stacking spaces, aisles and drives shall be located on the same zoning lot as the use served.

B. No off-street parking shall be permitted in front yards, other than established hard surface driveways. Off-street parking in back and side yards shall be permitted on an all-weather surface. Off-street parking access path shall be an all-weather surface the width of the vehicle, and shall extend from the accessory off-street parking to the hard surface driveway or easement. All off-street parking shall not infringe on any road right-of-way or easement.

C. Aisles and drives shall not be considered in determining whether off-street parking and stacking requirements have been met except in the instance of single-family dwellings and duplexes.

D. For residential properties, all open off-street parking areas and pathways in side, street, and rear yards must have sight obscuring screening of not less than six (6) feet in height, between the parking area and or/pathway, and the adjacent residential property. When abutting property owners have entered into, and filed with the Sedgwick County Register of Deeds, a shared access agreement, this provision may be modified with the approval of the Zoning Administrator. Approval by the Zoning Administrator shall be in writing, and a copy of the approval maintained in the Office of the Zoning Administrator. Appeal of a denial by the Zoning Administrator shall be to the Board of Zoning Appeals.

d <u>Design:</u> Except for single-family dwellings and duplexes, all off-street parking and stacking spaces, aisles and drives shall comply with the following prescribed standards:

i. Parking space dimension. An off-street parking space shall be at least eight feet six inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps or columns, unless special parking is designated for variable sizes of vehicles.

ii. Access: Each off-street parking space shall open directly upon an aisle of such width and design as to provide safe and efficient means of vehicular access to such parking space.

iii. Exiting a parking facility: No off-street parking facility shall be designed in such a manner that when exiting a parking facility it would require backing into a public street, unless specifically approved by the public works director. Such arrangements are to be discouraged, except in unusual circumstances wherein the traffic safety of the public can still be protected.

iv. Curbing: Protective curbing shall be installed a minimum of three feet from a public sidewalk and two feet from adjacent property lines.

v. Markings: The parking spaces in all off-street parking areas shall be visibly delineated on the surface by painted or marked stripes.

e Lighting: Any lighting used to illuminate off-street parking facilities shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three foot-candles measured at the lot line.

f Drainage: All stormwater runoff shall be collected, transported and disposed of in a manner as approved by the public works director or city engineer.

g Accessible parking: Where a use is required to provide accessibility for persons with disabilities, the required parking spaces shall be located and designed in accordance with standards as set by the Americans with Disabilities Act (ADA).

h Modification of parking requirements: Where it can be demonstrated by the property owner that a specific use has such characteristics that the number of parking or stacking spaces required is too restrictive, the public works director, city engineer and building inspector may upon request grant up to a 25-percent reduction in the number of required spaces. Such request shall be filed with the city building inspector as appropriate on forms as may be provided. Should a reduction greater than 25 percent be requested, a variance will need to be granted by the board of zoning appeals in accordance with the procedures set forth in article III. Where a reduction of 25 percent or less is requested, the applicant shall be required to reserve an area of land on the site of the use served equal in size to the area of land needed to provide the spaces for which a reduction is granted. Such land reserved shall be suitable for development of a parking facility and conform with the parking requirements.

i Condition of off-street parking facility: Any parking facility which does not meet the standards of this chapter and which shall create a nuisance to the public from any cause shall meet the requirements as recommended by the city public works director pertaining to screening, surfacing or entrances or exits.

j Parking limits for residential properties: All off-street passenger vehicle parking in back and side yards shall not exceed more than two (2) passenger vehicles. To accommodate those properties with back yard garages, or other less common design standards, property owners may apply to the Zoning Administrator for a modification to the two (2) passenger vehicle limit. Approval by the Zoning Administrator shall be in writing, and a copy of the approval maintained in the Office of the Zoning Administrator. Appeal of a denial by the Zoning Administrator shall be to the Board of Zoning Appeals. Additionally, all off-street recreational vehicle parking in side, street, and back yards shall not exceed more than one (1) of each type of recreational vehicle: One (1) boat, one (1) camper, one (1) RV, one (1) cargo trailer, and one (1) registered trailer.

C. Required number of off-street parking spaces. In all districts, unless otherwise stated within the district regulations, there shall be provided prior to the occupation of a building or commencement of a principal use a minimum number of off-street parking and stacking spaces as set forth herein except as otherwise provided for in Section 500(d)(2).

LAND USE	NUMBER OF SPACES REQUIRED
RESIDENTIAL	
Single-Family	1 per unit
Duplex	1 per unit
Multi-Family	1.25 per one bedroom unit; 1.75 per 2bedroom or larger unit
Bed & Breakfast Inn	1 per sleeping room
Hotels & Motels	1 per sleeping room plus additional space for restaurant, convention centers and other facilities as may be open to public
Congregate Living & Dormitory Type Dwellings	1 per sleeping room
Developmentally Disabled Group Home	1 per each 2 sleeping rooms
Assisted Living	0.75 per unit
COMMUNITY FACILITIES AND INSTITUTIONAL USES	
Public and Private Educational Facilities	
Elementary & Secondary	1 per teacher/employee, plus 5 visitor spaces
Senior High	1 per teacher/employee, plus 1 per four students
Church or Place of Worship	1 per every four seats in auditorium or largest room
Community Center	1 per 300 square feet of floor area
Reception, conference and assembly facility	1 per 150 square feet of floor area or 1/3 of the occupant load, whichever is less
Day Care Center	1 per teacher/employee, plus 1 per vehicle used in center, plus 1 per 10 children based on enrollment. To provide for the safe and convenient loading and unloading of persons as well as minimize traffic congestion, a paved unobstructed pickup space with adequate stacking area (as determined by the public works director) shall be provided at the building entrance.
Group Home	1 per each house parent, plus 1 per each resident who is permitted to drive
Hospital and Convalescent Care Facilities	1 per 5 beds, plus 1 per employee in the largest working shift
Private Membership Association, Club, Lodge or Fraternal Organization	1 per 300 square feet of floor area

College or University	1 per 2.5 students enrolled
Business or Vocational School, Technical College	1 per 200 square feet of floor area
PROFESSIONAL OFFICES	
Medical and Related Offices and Clinics, Chiropractic, Dental, Optometrist, Osteopath, Pediatrician, etc.	1 per 300 square feet of floor area
Professional and Governmental Offices: Accounting, Architectural, Engineering, Governmental, Insurance Sales, Law, Real Estate, Sales and Brokerage, etc.	1 per 400 square feet of floor area
Financial Institution	1 per 200 square feet of floor area, plus 3 stacking spaces for each external teller or customer service window
Veterinarian	1 per 400 square feet of floor area
COMMERCIAL	
Business and Retail Establishments (other than listed)	1 per 200 square feet of floor area
Restaurants:	
Family Dining Type, where all food consumed within an enclosed structure	1 per 150 square feet of floor area or 1/3 the occupant load, whichever is less
Carry-out and Delivery Only, where no food consumed on the premises	1 per each employee based upon maximum shift, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street
Drive-in type, where food may be consumed on the premises, outside a completely enclosed building, or served directly to customers in parked vehicles.	1 per 35 square feet of floor area, plus 5 stack spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street
Fast Food, an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises	1 per 85 square feet of floor area or 1/3 the occupant load, whichever is less, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or
	vehicular circulation on the site or on any abutting street
Automotive Service Station, Convenience Store	1 per 4 gas pumps, but, not fewer than 4 spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
Funeral Home or Mortuary	1 per every 3 seats in the main seating area
Theater, adult/nonadult	1 per each 2.5 seats

Automotive or Vehicle Carwash	1 per each 2 washing stalls plus 2 stacking spaces per washing stall
Shopping Centers	4.55 per 1,000 square feet of gross floor area
RECREATION, ENTERTAINMENT AND AMUSEMENT	
Commercial Recreational Facility (other than listed)	1 per 150 square feet of floor area
Courts, racquetball, handball, squash and tennis (when operated as an independent use.)	4 per each court, or 1 per 2 spectator seats, whichever is greater
Amusement Indoor Establishments	1 per 100 square feet of floor area
Auditorium, Fairgrounds, Stadiums and Grandstands	1 per every 4 seats
Athletic Field	15 spaces for every diamond; 20 spaces for every soccer or athletic field, or 1 space for every 4 seats, whichever is greater
INDUSTRIAL USES	
Industrial Establishments (other than listed)	1 per 1,000 square feet of floor area
Warehousing	1 per 1,000 square feet of floor area to a maximum of 5 spaces for establishments up to 25,000 square feet, 5 spaces plus 1 for each additional 5,000 square feet above 25,000 square feet of floor area
Manufacturing or Establishments Engaged in Production, Processing, Packing and Crating, Cleaning, Servicing, or Repair of Materials, Goods or Products	1 per 600 square feet of floor area up to 25,000 square feet of floor area; and 1 per 1,000 square feet of floor area above 25,000 square feet of floor area
OTHER USES	
For uses not listed, parking spaces shall be provided on the same basis as required for the most similar listed use as determined by the public works director or his designee	

C. Approval of off-street parking facilities. The design of all off-street facilities shall be subject to the approval of the city or county building official as appropriate prior to issuance of a building and/or parking lot permit, or for any certificate of occupancy where no building permit is required. Before approving any off-street parking plan, the appropriate governmental official shall find the spaces, aisles and drives provided are usable as designed and meet the requirements as set forth herein.

1. Submission of site plan: Any application for a parking lot and/or building

2. Temporary permit: Prior to issuance of a certificate of occupancy, all parking and stacking spaces, aisles and drives shall be properly constructed and surfaced; except that the appropriate city or county building official may issue a temporary certificate of occupancy in those instances where the building official finds that the surfacing cannot reasonably be completed due to adverse weather conditions or settling of land on the site after demolition or filling. A temporary certificate of occupancy shall be effective only to a date specified.

3. Enforcement: If the applicant fails to construct the parking facility in conformity with the requirements of this article or other prescribed requirements, the appropriate governing body may order the removal or replacement of the nonconforming parking facility or portion thereof. The cost of removal or replacement and any necessary reconstruction shall be levied as a special assessment against the property.

4. Public right-of-way shall not be utilized for internal traffic circulation or stacking for drive-up window facilities and similar such car-service features.

All facilities proposing "drive-in" and/or "carry-out" service features shall be reviewed and considered by the public works director or designee in respect to: ingress/egress to public right-of-way; the impact upon street side parking; adequacy of on-site vehicle storage, parking and traffic patterns; and pedestrian safety. The public works director shall not approve the proposal if the public safety and welfare are negatively impacted.

501 LANDSCAPING

A. PURPOSE. The purpose of this article is to enhance the attractiveness of the community through the establishment of landscape requirements. The standards herein established shall apply to all new development and certain levels of redevelopment, renovations and/or additions within the corporate boundaries of the City of Haysville, except single-family residences and duplexes.

Properly established and maintained, landscaping can improve the livability of neighborhoods, enhance the appearance of commercial areas, increase property values, improve relationships between non-compatible uses, screen undesirable views, soften the effects of structural features, and contribute to a positive overall image of the community.

B. DEFINITIONS. For the purpose of this article, certain terms or words used herein shall be interpreted as follows:

1. Average lot depth. The horizontal distance between the front and rear lot lines measured along the median between the side lot lines. For multiple-frontage lots, the average lot depth measured from each street shall be divided by the total number of streets to obtain one average depth for the lot.

2. Berm. An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

3. Conifer tree. An evergreen tree, usually of the pine, spruce or juniper genus, bearing cones and generally used for its screening qualities. For purposes of these regulations, a conifer shall be considered a shade tree if it is at least five (5) feet tall when planted AND is one (1) of the evergreen trees listed in the Kansas Urban Forestry Council's publication titled Preferred Tree Species for South Central Kansas AND will obtain a mature height of twenty (20) feet or greater.

4. Deciduous. Trees and shrubs that shed their leaves annually.

5. Evergreen. Trees and shrubs that do not shed their leaves annually.

6. Groundcover. Living landscape materials or low-growing plants, other than turf grasses, installed in such a manner so as to provide a continuous cover of the ground surface, and which upon maturity normally reach the average maximum height of not greater than twenty-four 24 inches.

7. Landscape materials. Living plants, such as trees, shrubs, vines, groundcover, flowers and grasses. It may include such nonliving features as bark, wood chips, rock, brick, stone or similar materials (monolithic paving not included) and structural and/or decorative features such as fountains, pools, gazebos, walls, fences, benches, light fixtures, sculpture pieces, and earthen berms, terraces and mounds.

8. Landscaping. The product of careful planning and installation using any combination of landscape materials subject to the limitations set out in this article which results in the softening of building lines, the modification of environmental extremes, the definition of separate functional spaces and the presentation of a pleasing visual effect on the premises.

9. Mulch. Non-living organic, inorganic or synthetic materials customarily used in landscape design and maintenance to retard soil erosion, retain moisture, insulate soil against temperature extremes, suppress weeds, deter soil compaction , and provide visual interest.

10. Ornamental tree. A deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark or shape, with a mature height generally under forty (40) feet. Trees listed in the Kansas Urban Forestry Council's publication titled Preferred Tree Species for South Central Kansas as small deciduous trees and medium deciduous trees will be classified as ornamental trees for purposes of administering this article.

11. Parking lot. An area not within a building or other structure where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. This definition shall include vehicle queuing or holding areas such as at car washes, drive-up windows, gasoline pumps, etc., but shall not include vehicle storage and display areas for new and used vehicle sales lots or parking for one-family and two-family dwellings.

12. Shade tree. Usually a deciduous tree-rarely an evergreen-planted primarily for its high crown of foliage or overhead canopy. Trees listed in the Kansas Urban Forestry Council's publication titled Preferred Tree Species for South Central Kansas as large deciduous trees and very large deciduous trees will be classified as shade trees for purposes of administering this article.

13. Shrub. A deciduous or evergreen woody plant smaller than a tree and larger than ground cover, consisting of multiple stems from the ground or small branches near the ground, which attains a height of twenty-four (24) inches or more.

14. Site specific. As used in this article, 'site specific' shall mean that the plant material chosen to be used on a site is particularly well suited to withstand the physical growing conditions which are normal for that location.

15. Street frontage. The length of the property abutting on one side of a street measured along the dividing line between the property and the street.

16. Street wall. Any building wall facing a street.

17. Street wall line. A line that extends from the building parallel to the street wall until it intersects a side or rear lot line or a wall line of another building.

18. Street yard. The area of a lot, which lies between the property line abutting a street and the street wall line of the building. If a building has a rounded street wall or if the building is on an irregular-shaped lot, wall lines extending parallel to the street wall from the points of the wall closest to the side property lines shall be used to define the limits of the street yard.

19. Xeriscape. Water conservation through creative landscaping which applies the following seven principles:

    a. Plan and design carefully.

    b. Improve the soil water holding capacity through use of soil amendments.

    c. Use efficient irrigation methods and equipment.

    d. Select site-specific, hardy plant materials, and then group all plants according to their sun and moisture needs.

    e. Use turf grass appropriately in locations where it provides functional benefits.

    f. Mulch.

    g. Give appropriate and timely maintenance.

20. Zoning lot. A parcel of land that is designated by its owner or developer at the time of applying for an occupancy certificate as a tract, all of which is to be used, developed or built upon as a unit under single ownership. Such lot may consist of:

    a. A single lot of record; or

    b. A portion of a lot of record; or

    c. A combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

C. SUBMISSION AND REVIEW OF LANDSCAPE PLANS.

1. Landscape plans shall be submitted when the applicant applies for a building permit and shall show the location of all landscape materials and shall be drawn to scale with the scale and north arrow indicated as well as names of all adjacent streets, the lot dimensions, the location of all utility and drainage easements, zoning of adjacent properties, and the legal description of the zoning lot. The plans shall contain a listing of the proposed plant materials indicating their numbers, names (both botanical and common) and sizes at the time of planting. The plans shall also state how water is to be provided to plant materials. Copies of the plans shall be submitted to the public works director, or his or her designee, in the quantity required by current policy. Statements setting out requirements of subsections 501.I.9, 501.I.10, 501.I.11 and 501.I.12 below shall be included on the landscape plan if they apply to the project. The number of parking spaces within each parking lot shall be shown. Calculations of the amount of required landscaped street yard and number of parking lot trees, as well as the amount and number actually provided, shall be included as part of the landscape plan.

2. A review fee of $100.00 shall accompany the plan.

3. An approved plan must be on file prior to the applicant receiving their framing inspection.

K. REQUIRED LANDSCAPED STREET YARD.

1. The minimum amount of landscaped street yard for non-residential districts or uses which are adjacent to at-grade expressway or freeway frontage roads, arterial or collector streets, or which are adjacent to local streets when across from residential districts, except as provided for in subsections 501.D.1.h below, shall be as follows:

   a. On a zoning lot with an average lot depth of 175 feet or less - eight (8) square feet of landscaped street yard per lineal foot of street frontage.

   b. On a zoning lot with an average lot depth of 175.01 feet to 275 feet - ten (10) square feet of landscaped street yard per lineal foot of street frontage.

   c. On a zoning lot with an average lot depth of 275.01 to 375 feet - fifteen (15) square feet of landscaped street yard per lineal foot of street frontage.

d. On a zoning lot with an average lot depth of more than 375 feet - twenty (20) square feet of landscaped street yard per lineal foot of street frontage.

e. The square footage per lineal foot of street frontage may be reduced twenty percent (20%) if the minimum planting size of materials specified in subsections (3)(c) and (3)(d) of this section is increased by one-hundred percent (100%) or more.

f. Plant, installation and maintenance techniques meeting the principles of Xeriscape shall be utilized for landscaping required by these regulations.

g. On a zoning lot with frontage on two or more streets, each of which requires a landscaped street yard, the landscaped area requirement shall be based on the sum of the street frontages, less the greatest perpendicular distance between the property line abutting a street and the street wall line, multiplied by the factor based on average lot depth as defined above. On multiple-frontage lots where the use of the average lot depth, as defined in section 501.B, would require more landscaped street yard than would be required if each frontage were calculated individually, the lesser of the calculations may be used. Although the required amount of landscaped street yard does not have to be equally distributed to the various street frontages, there shall be no less than twenty percent (20%) of the total required landscaping within any street yard.

h. On collector streets with industrial zoning on both sides of the street, the requirement for a landscaped street yard shall be automatically waived.

i. When located in a residential district or adjacent to a residential district, vehicle parking shall not be located within the required from yard setback and such front yard shall remain unpaved and shall be landscaped.

2. Minimum number of trees within street yards: A minimum of one (1) shade tree shall be required per five-hundred (500) sq. ft. of area. Two (2) ornamental trees are equivalent to one (1) shade tree, or ten (10) shrubs are equivalent to one (1) shade tree, or five (5) shrubs are equivalent to one (1) ornamental tree.

3. Design standards for landscaped street yards and required trees:

a. Height. Trees shall be chosen that will not meet a maturity height the same height or taller as any high-lines in the street yard.

b. Spacing. Street trees may not be planted closer together than the following:

i. Small Trees -15 feet;

ii. Medium Trees - 25 feet;

iii. Large Trees - 35 feet; and

iv. Very Large Trees - 40 feet

Exceptions may be granted by the Planning Commission.

c. Curbs and Sidewalks. Small and medium street trees may be planted in the tree lawn where there is six (6) feet to (10) feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three (3) feet from a sidewalk or, in the event a sidewalk does not exist, street trees shall be planted no closer than three (3) feet from the edge of the street. Exceptions may be granted by the Planning Commission.

d. Street Corners and Fire Hydrants. No street tree shall be planted within twenty (20) feet of any street corner along an arterial street or within fifteen (15) feet of any street corner along the adjoining collector street. Distance will be measured from the point of nearest intersecting curblines. No street tree shall be planted within ten (10) feet of any fire hydrant.

e. The minimum size at the time of planting of required trees shall be as follows: shade trees --- 2-inch caliper measured at a height of six (6) inches above the ground; ornamental trees --- 1.5-inch caliper measured six (6) inches above the ground; conifer trees --- five (5) feet.

f. Shrubbery may be substituted for up to one-third (1/3) of the required trees at the rate of ten (10) shrubs for one (1) required shade tree. Substitute shrubbery shall be of a site-specific type that attains a mature height of at least two (2) feet and shall be no less than two- (2) gallon container size at the time of planting.

g. Shrubbery, walls and fences which are twenty-five percent (25%) or more opaque in design shall be constructed no higher than three (3) feet above the finished grade in a required landscaped street yard when located within a right triangle, the sides of which are formed by a line extending twenty-five (25) feet toward the shrubbery, wall or fence from any vehicular access point along the street right-of-way line and a line extending six (6) feet away from and perpendicular to the street right-of-way line from the same access point. Shrubbery, walls or fences located near the intersection of streets shall maintain sight visibility clearance as specified in the City Code. All opaque fences shall be located toward the private property side of required landscaped street yards along street right-of-way to maintain a landscaped appearance along the street.

h. The intent of the landscaped street yard is to visually soften the mass of buildings and parking lots and to separate building areas from parking areas through the use of plantings. Paved plazas may be credited to a maximum of fifty percent (50%) of required street yard landscaping area if such plazas have trees and/or shrubbery which provide(s) visual relief to those building elevations forming the major public views of the project. Paved walkways and bike paths connecting public sidewalks to buildings located on private property within a landscaped street yard may also be credited to a maximum of fifty percent (50%) of the required landscaped street yard.

L. REQUIRED BUFFERS.

1. Buffers Between Non-Residential and Residential Development:

a. Where Required - Such a buffer is required along the common property line of any non-residential project in any zoning district where such project is adjacent to a residential district.

b. Design Standards - There shall be a minimum of one (1) shade tree or two (2) ornamental trees for every forty (40) feet or fraction thereof of lot line abutting the residential district. The trees may be irregularly spaced but shall be within fifteen (15) feet of the property line common to the residential district. If utility and/or drainage easements occupy this fifteen (15)-foot perimeter area, the trees may be located outside the easements. Each tree shall be in a planting area having a minimum permeable ground surface of twenty-five (25) square feet. The minimum size at the time of planting of required trees shall be as follows: shade trees --- 2-inch caliper measured at a height of six (6) inches above the ground; ornamental trees --- 1.5 -inch measured at a height of six (6) inches above the ground; conifer trees --- 5 feet in height. These trees shall be in addition to any screening required by City Code.

2. Buffers Between Adjacent Multi-Family Residential and Single-Family/Two-Family Residential Projects:

a. Where Required - Such a buffer is required along the common property line of any multi-family project (a project with three or more dwelling units in one building) in any zoning district where such a project is adjacent to a one-family or two-family zoning district.

b. Design Standards – There shall be a minimum of one (1) shade tree or two (2) ornamental trees and five (5) shrubs for every fifty (50) feet of the length of the buffer. A minimum of one-third (1/3) of the trees and shrubs shall be evergreen. The minimum size at the time of planting of required trees shall be as follows: shade trees --- 2-inch caliper measured at a height of six (6) inches above the ground; ornamental trees --- 1.5-inch measured at a height of six (6) inches above the ground; conifer trees --- 5 feet in height. The minimum size of shrubs shall be two (2) gallon containers. The trees may be irregularly spaced but shall be within fifteen (15) feet of the property line common to the single-family/two-family residential projects. Parking shall be screened from adjacent residential areas in accordance with the parking lot screening requirements listed below. Required screening may be located within the buffer area. Parking may not be located within the buffer area.

M. PARKING LOT SCREENING AND LANDSCAPING.

1. Required Screening: All new parking lots or additions to parking lots shall be continuously screened from view from adjacent residential districts and certain types of streets when within one-hundred fifty (150) feet thereof (measured from the property line adjacent to the street), except at points of vehicular and/or pedestrian ingress and egress, to a minimum height of three (3) feet above the parking surface by the use of berms and/or plantings, with the following exemptions: 1) open parking lots in one-family and two-family residential projects in any zoning district and 2) open parking lots in industrial districts located on collector streets with industrial zoning on both sides of the street. Walls and fences may be used in combination with berms and plantings but may not be used as the sole means of screening a parking lot. This requirement shall apply to all at-grade expressway, freeway, arterial and collector street frontages and to all local streets when parking is across from residential zoning districts. On corner lots where parking is within one-hundred (150) feet of two (2) or more streets but not all the street frontages require parking lot screening (due either to type of street or zoning district across the street), the parking lot screening shall wrap around the corner of the lot from the frontage which does require screening for a distance of not less than one-hundred (100) feet.

   a. Walls or fences used in combination with berms and/or plantings shall avoid a blank and monotonous appearance by such measures as architectural articulation and placement of vines, shrubs and/or trees.

   b. All screening and landscape elements may be located within and be substituted for required landscape buffers and street yards, provided sight clearances are maintained as specified in section 501.D.3.g above and provided further that the minimum number of trees otherwise required in the yard or buffer are established in the street yard. Shrubs used in meeting screening requirements shall not be substituted for required trees.

   c. Where walls and fences are to be combined with vines and shrubs to create the screening effect, they should be located in a planting strip with a minimum width of no less than three (3) feet from the edge of any adjacent sidewalk. Landscape materials shall be located on the public right-of-way side of the wall or fence.

d. Where shrubs, trees and other landscape materials are used exclusively to create the screening effect, they should be located in a planting strip with a minimum width of no less than five (5) feet from the edge of the parking lot paving to the edge of any adjacent sidewalk.

e. Where berms are to be combined with trees, shrubs, walls or fences to create the screening effect, they should be located in a planting strip with a minimum width of no less than ten (10) feet from the edge of the parking lot paving to the edge of any adjacent sidewalk.

f. Planting strips associated with parking lot screening may be located in whole or in part on public street right-of-way on the basis of an approved landscape plan, provided adequate public right-of-way exists, there is no less than fourteen (14) feet of right-of-way between the property line and the curb, no conflict exists with public utilities, and the location of berms, walks, irrigation fixtures and other permanent landscape features is subject to a minor street privilege granted through the office of the public works director.

g. The minimum size at the time of installation of plant materials used for parking lot screening shall be as follows: shade trees - 2-inch caliper measured at a height of six (6) inches above the ground; ornamental trees - 1.5 -inch caliper measured six (6) inches above the ground; conifer trees - 5 feet in height; shrubs - 18-inch height. Shrubs used for parking lot screening shall be expected to obtain a height of at least thirty-six (36) inches within the third year after planting. Spacing between shrubs will depend upon the type of shrub but shall be close enough to achieve a visual screen when the plants reach maturity.

h. Evergreen and/or deciduous plant materials may be used, provided a solid screening effect is maintained on at least two-thirds (2/3) of the treated frontage during all seasons of the year.

i. All screening materials and landscape features shall be protected from vehicular damage or encroachment by appropriately located curbs or wheel stops.

2. Required Landscaping: All new parking lots or additions to parking lots which create twenty (20) or more spaces and which are required to provide screening in accordance with this section of the code shall also be required to provide at least one (1) shade tree or two (2) ornamental trees for each twenty (20) parking spaces or fraction thereof over twenty (20). Vehicle queuing and holding areas shall not be counted when determining the number of spaces in a lot. Up to one-half (1/2) of all trees required by the landscaped street yard calculations may be used to satisfy these parking lot landscaping requirements. The trees shall be located within and around the parking lot to enhance the appearance of the lot and to reduce the deleterious effect of large expanses of paved areas. In parking lots containing fifty (50) spaces or more with two (2) or more drive aisles and three (3) or more parking bays, all of which are contiguous, at least one-half (1/2) of the required trees shall be planted in interior planting islands with each tree having a minimum permeable ground surface area of twenty-five (25) square feet. Trees shall be protected from possible damage caused by vehicle bumpers by the use of bumper blocks, raised curbs or other protective means. The minimum acceptable tree size at the time of installation shall be a 2 inch caliper for a shade tree and a 1.5 -inch caliper for an ornamental tree, both measured at a height of six 6 inches above the ground.

N. PERCENTAGE IN LIVING MATERIALS. Unless otherwise specified, required landscape area shall consist of a minimum of fifty-five percent (55%) in ground surface covering by living grass or other plant materials. The foliage crown of trees that may extend over monolithic paved surfaces beyond the required landscaped area or over non-living surfaces within the required landscaped area shall not be used in the fifty-five percent (55%) or other required percentage calculation. The remaining forty-five percent (45%) of the required landscape area may be covered with bark, wood chips, rock, bricks, stone, or similar materials (monolithic paving not included). An effective weed barrier shall be required in non-living landscaped areas. The use of non-living materials in required landscape areas for other than mulching around trees, shrubs and planting beds shall be on the basis of a landscape plan approved by the public works director, or his or her designee.

O. SCREENING OF MECHANICAL EQUIPMENT, LOADING DOCKS AND TRASH RECEPTACLES. Screening shall be provided to reasonably hide from ground level view all ground level heating, air conditioning and other mechanical equipment, loading docks, trash receptacles or similar uses from adjoining street rights-of-way or from adjoining properties which are zoned a residential district or used for residential purposes. Such screening shall be on the basis of a landscape plan approved by the public works director, or his or her designee.

P. OTHER LANDSCAPE REGULATIONS.

1. Landscaping shall not conflict with the traffic visibility requirements.

2. The use of artificial trees, shrubs, vines, turf, or other plants as an outside landscape material is prohibited.

3. The planting of Ulmus pumila (Siberian elm) in required landscape areas will not be allowed.

4. The planting of female or cotton-bearing cottonwood trees will not be allowed in any required landscaped area.

5. Clumped or multi-trunked trees, where used, instead of single-trunk trees, shall be credited as only one (1) of the required trees.

6. Landscaping shall not interfere with the general function, safety or accessibility of any gas, electric, water, sewer, telephone, or other utility easement. Landscaping shall be limited to an eight-inch (8”) mature height within three (3) feet of a fire hydrant, traffic sign, traffic signal or utility structure.

7. The existing indigenous vegetation on a site is encouraged to be retained in a development project and may be credited toward required landscaping, provided this vegetation is adequately protected during construction to insure long-term survival.

8. Where a calculation of a requirement results in a fractional number (such as 14.2 required trees), the requirement shall be considered the next greatest whole number (such as 15 required trees).

9. Landscaping in the right-of-way of a State Highway shall be approved by the District Engineer, where applicable.

10. Prior to excavation for screening or landscape purposes within public right-of-way or easements, the location of all underground utilities shall be determined by calling the Kansas One-Call System and the Haysville Public Works Department.

11. Berms, irrigation systems, street furniture, entry monuments, fountains, statuary or similar landscape features may be located within public street right-of-way, provided adequate right-of-way exists and a minor street privilege is received from the office of the public works director.

12. Walls and/or fences incorporated in any proposed landscape plan must comply with the City Code.

13. No more than seventy-five percent (75%) of the required landscape areas shall be covered by turf grasses unless the grass is buffalo grass.

14. Plants shall be high-quality nursery-grown stock, which meets the American Association of Nurserymen standards as specified by the American National Standards Institute in ANSI Z60.1-1986 or as may be amended in the future.

Q. MAINTENANCE.

1. The landowner is responsible for the maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times.

2. Maintenance shall include mowing, trimming, weeding, cultivation, mulching, tightening and repairing of guys and stakes, resetting plants to proper grades and upright position, restoration of planting saucer, fertilizing, pruning, disease and insect control and other necessary operations.

3. All landscaped areas shall be provided with a readily available permanent water supply; provided, however, that landscaped areas utilizing drought-tolerant plants may use a temporary above-ground system and shall be required to provide irrigation for the first two (2) growing seasons only. Irrigation shall not be required for established trees and natural areas that remain undisturbed by development activities. Irrigation systems shall be designed and operated in a manner to avoid placing water on impervious surfaces and public streets. Long, narrow landscaped areas are difficult to irrigate efficiently, therefore landscaped areas less than five (5) feet in any dimension shall not be irrigated with overhead spray sprinklers. Drip irrigation is acceptable.

4. Disturbed soil between trees and shrubs in the planting beds shall be mulched, planted or otherwise treated to prevent wind and water erosion.

5. Plants which die shall be replaced within sixty (60) days or, if weather prohibits replanting within that time, then replanting shall occur within the first thirty (30) days of the next planting season.

R. EXCEPTIONS AND MODIFICATIONS. The provisions of this article may be modified and/or trade-offs permitted with respect to dimension or location within a property boundary. Permitted forms of modification and exception are identified as follows:

1. For purpose of application of this chapter, no buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen, nor allowed to be used in a trade-off or modification of a standard.

2. The change in use, or redevelopment of a site utilizing all or parts of an existing building shall not be required to meet the landscaping requirements of this chapter, except as follows:

    a. When the value of the new addition, renovation or redevelopment exceeds fifty percent (50%) of the value of the existing development, as determined by the County Appraiser's office; or

    b. When there is more than a thirty percent (30%) increase of the gross floor area on the site. New parking lots and additions to parking lots which are required to provide landscaping and/or screening in accordance with Section 501 F shall do so even if there is no increase in gross floor area or value.

3. Lots or tracts of land abutting the right-of-way of a railroad zoned for residential use and held by title separate from all abutting lands shall not be required to provide landscaped buffers along the common property line.

4. In those instances where a development site abuts a public park or other permanent public open space and where at least one-hundred sixty (160) feet of undisturbed natural foliage exists along the common lot line, a landscaped buffer requirement along the common property line is not required; provided, however, loading docks, trash containers, and storage areas on the development site along the common line shall be screened as provided by the City Code.

5. For purposes of this section, the City Inspector, in concurrence with the public works director or his/her designated representative, shall have the authority to interpret the language and specifics of application of the exceptions as outlined in this section. Appeals of the decisions of the city inspector and the public works director shall be filed with the planning commission. In the opinion of the city inspector and the public works director, where there exist extraordinary conditions of topography, existing vegetation, land ownership, site boundaries and dimensions, adjacent development characteristics or other circumstances not provided for in this section, the city inspector and public works director may modify or vary the strict provisions of this section in such a manner and to such an extent as is deemed appropriate to the public interest, provided that the purposes and intent of this article are maintained through such modification or variance.

6. No property owner obtaining a permit for a project involving a new building or building addition shall be required to expend more than ten percent (10%) of the total construction cost for materials and installation costs associated with landscaping and parking lot screening required by this article. Fifty percent (50%) of the total expended on landscaping shall be dedicated to living materials. In order to qualify for this exception, the property owner must submit a bona fide bid from a licensed contractor for the total project cost, and a bona fide bid from a licensed contractor or nursery man for materials and installation costs for an approved landscape plan. The bid for landscaping must distinguish those items which are required by the article from any other items which are not required. If the total cost of required landscaping items exceeds the applicable percentage as specified above, then the property owner may select items, with approval of the public works director, or his or her designee, to delete from the approved plan, and submit the list of items to be deleted as an addendum to the approved plan.

7. The preservation and protection from construction damage of each existing tree of six (6) or more inches in trunk diameter (measured six (6) inches above the ground) within a street yard, parking lot or perimeter buffer area of a site, shall be counted as two (2) trees for the purposes of meeting the required number of trees.

S. WATER CONSERVATION MEASURES. When meeting the landscape requirements outlined in this article, property owners are encouraged to use water in the most efficient way possible. A number of principles for effective water usage are found in the accepted approach to landscaping called Xeriscape. The term Xeriscape is derived from a Greek word meaning 'dry'. The desired effect of a Xeriscape, however, is to provide an attractive and even lush-appearing landscape with a minimum amount of water usage. This is accomplished through the application of the seven (7) basic principles of Xeriscape.

Information concerning the principles of Xeriscape is available from Botanica, the Haysville Public Works Department, the Haysville Municipal Building and the Haysville Tree Board. Property owners are encouraged to take advantage of the water-saving practices set out in the principles of Xeriscape.

Regardless of the extent to which the principles of Xeriscape are applied, automatic irrigation systems installed in association with the landscaping requirements of this article, shall be equipped with moisture-sensing devices or automatic rain shut-off devices that forestall scheduled watering cycles when moisture adequate to sustain healthy plant life is present.

T. ENFORCEMENT/ASSURANCES FOR INSTALLATION AND COMPLETION. Prior to the issuance of a certificate of occupancy for any structure where landscaping is required, except when a certificate of occupancy is obtained by providing acceptable assurance to the city guaranteeing the completion of such landscaping, all work as indicated on a landscaping plan shall be inspected and approved by the city inspector, or his or her designee. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the city inspector, or his or her designee.

At the time of inspection, the city inspector, or his or her designee, shall check the quantities and locations of landscape materials. At the time of such inspection, the landowner shall warrant that the completed landscaping complies with the requirements of this article. Such warranty shall include the quantities, locations, species and sizes of plants and other landscape materials used for compliance. In the event that an inspection is not conducted by the city inspector, or his or her designee, prior to the issuance of a certificate of occupancy because acceptable assurance has been provided to the city guaranteeing the completion of such landscaping, such inspection shall be done by the city inspector, or his or her designee, subsequent to the installation of such landscaping but prior to the release or expiration of the acceptable assurance.

A landowner may obtain a final certificate of occupancy for a structure prior to the completion of required landscaping work if the completion is not possible, due to seasonal or weather conditions, and if the landowner submits the necessary assurances to the city inspector, or his or her designee, for the completion of the landscaping. The acceptable assurance guaranteeing the completion of the landscaping (such as an irrevocable letter of credit, certified check, or other acceptable assurance) shall be equal to one hundred twenty-five percent (125%) of the cost of the landscaping work and shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the city inspector, or his or her designee.

502 HOME OCCUPATIONS

Home occupations shall consist of the following:

A. Authorization. Home occupations shall be approved by the Planning Commission unless otherwise specified in this section.

B. Definition. A business, profession, occupation or trade conducted for gain entirely within a residential building or, when permitted by subsection (C) of this section, within a structure that is accessory to a residential building.

C. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

1. In all districts permitting dwellings.

   a. No alteration of the principal building or premises shall be made which changes the character or appearance.

   b. The home occupation shall not occupy more floor area than floor area devoted to the primary use as a residence.

   c. No equipment shall be used which shall create undue noise, vibration, electrical interference, smoke or particulate matter emission, power demands or odors.

   d. There shall be no outside storage of equipment or materials used in the home occupation in the front setback. There shall be no overnight parking of vehicles rated over one (1) ton in the front setback.

   e. No more than two (2) persons shall be engaged in such home occupation other than a person occupying such dwelling unit as his or her residence.

   f. The home occupation shall be conducted entirely within an enclosed structure.

g. Signs shall be permitted in accordance to Article 2, Chapter 16B, Haysville Municipal Code

h. This in no way is to be construed to override any restrictive covenants of record.

i. No more than two (2) vehicles used to advertise or operate the business shall be parked in the front setback at the home occupation at one time.

D. Home Occupations Permitted. Home occupations include the following list of occupations; provided, however, that each listed occupation shall be subject to the requirements of subsections (B) and (C) of this section:

1. Artists, authors or composers, dancers, music teachers, aerobics, martial arts, and other similar artists, including instruction thereof; provided that instruction shall be limited to not more than five pupils at a time.

2. Home crafts, such as model making, rug weaving, etc.

3. Ministers, rabbis, priests for counseling purposes only.

4. Office facilities for sales persons, sales representatives, manufacturer's representatives, when no retailing or wholesaling is made or transacted on the premises.

5. Office facilities for architects, engineers, lawyers, doctors, dentists, and members of similar professions.

6. Office facilities for service type business such as insurance agents, brokers, decorators, painters, business consultants, tax advisors and photographers.

7. Personal services such as dressmakers, seamstresses, tailors, barbershops, beauty shops.

8. Gunsmithing and gun sales as a hobby, if no more than 36 guns are sold per year. Ammunition or ammunition components for sale must be stored in a lockable, fireproof container that meets UL approval.

9. Child Care as governed by state law.

10. Massage Therapy

E. Particular Home Occupations Prohibited. Permitted home occupations shall not in any event, be deemed to include:

1. Animal hospitals.

2. Auto and/or other vehicle repair.

3. Funeral homes.

4. Kennels and/or stables, unless specifically permitted by the district regulations.

5. Medical and/or dental clinics or hospitals.

6. Renting of trailers, cars or other equipment.

7. Restaurants.

8. Occupations listed in any less restrictive zone or district.

503 RESERVED

504 RESIDENTIAL DESIGN MANUFACTURED HOMES ARCHITECTURAL AND AESTHETIC STANDARDS

On and after January 1, 1992, residential-design manufactured homes, as defined in these regulations, shall be permitted subject to the following architectural and aesthetic standards:

A. The roof must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, or asphalt composition shingles, but excluding corrugated aluminum, corrugated fiberglass, or corrugated metal roof.

B. Exterior siding shall be of a material customarily used on site-built dwellings, such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with the local building code.

C. The home shall be installed in accordance with the recommended installation procedures of the manufacturer and the standards set by the International Conference of Building Officials (ICBO) and published in “Guidelines for Manufactured Housing Installations” currently in effect at the time of installation. A continuous, permanent masonry foundation on top of the footing or masonry curtain wall, unpierced except for required ventilation and access which may include basements and garages, shall be installed under the perimeter of the home, also in accordance with the ICBO “Guidelines for Manufactured Housing Installations” currently in effect at the time of installation.

D. The required door must have a minimum of three (3) feet by three (3) feet landing which is constructed to meet the requirements of the local building code.

E. All manufactured home running gear, tongues, axles, and wheels must be removed at the time of installation of the home on the lot.

F. Any addition or attached garage to a residential-design manufactured home shall comply with all construction requirements of the local building code.

G. At the point of highest elevation of the finish grade, maximum height of the foundation/curtain wall will be a maximum of ten (10) inches and a minimum of eight (8) inches.

505 WIRELESS TELECOMMUNICATIONS FACILITIES

A. PURPOSE. The purpose of this article is to regulate the placement, construction and modification of commercial wireless telecommunications facilities and antenna support structures in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City in compliance with the Telecommunications Act of 1996 and any other applicable laws.

B. OBJECTIVES. The objectives of this article are the following:

1. To regulate the placement, construction and modification of wireless telecommunications facilities in the City;
2. To regulate the location of wireless communication facilities in areas and on sites where the adverse impact is minimal;
3. To minimize the potential adverse visual impact of wireless telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques;
4. To ensure that wireless telecommunications facilities are compatible with surrounding land uses;
5. To promote and encourage shared use/co-location of wireless telecommunications facilities and antenna support structures as the primary option for personal wireless telecommunications services instead of the construction of additional single-provider towers;
6. To avoid potential damage to property caused by wireless telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or when determined to be structurally unsound;
7. To encourage the safe, effective and efficient provision of personal wireless telecommunication services to the community;
8. To ensure that the regulation of personal wireless telecommunication services does not prohibit or have the effect of prohibiting the provision of such services; and,
9. To ensure that that the regulation of personal wireless telecommunication services does not unreasonably discriminate among functionally equivalent providers of such services.

C. DEFINITIONS. For the purpose of this article, certain terms or words used herein shall be interpreted as follows:

1. Abandonment. In the case of a non co-located facility, shall mean: (a) failure to start operations within ninety (90) days of completion of the structure, or (b) to cease operation for a period of ninety (90) or more consecutive days. In the case of a co-located facility, abandonment shall mean: (a) failure to start operations within one hundred eighty (180) days of completion of the structure, or (b) to cease operation for a period of one hundred eighty (180) or more consecutive days.

2. Act. The Communications Act of 1934, 47 U.S.C. §§ 151 e*t seq*., as amended, including the amendment known as the Telecommunications Act of 1996, and all future amendments.

3. Antenna. Any structure or device used to transmit or receive electromagnetic or optical signals for television, radio, digital, microwave, cellular, telephone, personal communication system (PCS) or similar forms of wireless telecommunication.

4. Antenna Support Structure. Any building or structure other than a tower or stealth monopole that can be used for the location of telecommunications facilities.

5. Applicant. Any person who applies for a conditional use permit or a building permit.

6. Array. A set of antennas for one (1) carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

7. Camouflage. A wireless communication facility that is disguised, hidden, or integrated with an existing structure as an architecturally compatible element or a wireless communication facility that is placed within an existing or proposed structure so as to be effectively hidden from view. This is a form of stealth design.

8. City. The City of Haysville, Kansas.

9. Co-location. Locating wireless telecommunication facilities owned by more than one provider on a single antenna support structure, tower or stealth monopole structure.

10. Engineer. Any qualified, licensed engineer who specializes in either electrical or microwave engineering, especially the study of micro-frequencies; and/or, who specializes in structural integrity and determining whether a tower or antenna support structure has the capacity to accommodate more than one provider.

11. Equipment enclosures. A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, back power supplies and emergency generators.

12. Existing tower. Any tower in existence at the time of application for an administrative permit or special permit.

13. FAA: The Federal Aviation Administration.

14. Fall Zone. The area on the ground within a prescribed radius, beginning from the base of a telecom structure or an antenna support structure within which there is a potential hazard from falling debris or collapsing material.

15. FCC: The Federal Communications Commission.

16. Guyed Tower. A type of tower that is supported, in whole or in part, by guy wires anchored to any surface.

17. Height. The vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

18. Landowner. Any person with fee title to a parcel of land within the City.

19. Lattice Tower. A self-supporting structure, erected on any surface, which consists of an open network of metal crossed strips or bars to support antennas and related equipment.

20. Modification. Any physical change to any element of a telecommunications structure or pre-existing structure.

21. Mount. The structure or surface upon which wireless communication facilities are mounted. There are three (3) types of mounts: (i) Building mounted--a wireless communication facility affixed to the roof or side of a building, (ii) Ground mounted--a wireless communication facility fixed to the ground such as a tower, and (iii) Structure mounted--a wireless communication facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

22. Monopole. A monopole structure, erected on any surface, which supports antennas and any connecting appurtenances.

23. Municipal Facilities. An antenna support structure owned by the City, including, but not limited to, water towers, fire stations and other similar buildings and structures.

24. Operator. An individual, partnership, association, joint-stock company, trust, or corporation engaged in control and maintenance of all instrumentalities, facilities and apparatus incidental to wireless telecommunication transmission, including but not limited to, a tower, antennae, associated buildings, cabinets and equipment. For the purposes of this article, an "operator" may or may not hold a lease, license or title on or for the site on which a tower is located.

25. Owner. Any person who develops, constructs, builds, modifies, erects or owns a telecommunications structure upon a parcel of land.

26. Person. Any individual person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for profit.

27. Personal Wireless Telecommunications Services. Any personal wireless service as defined in the Act, including FCC-licensed commercial wireless telecommunications services such as cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging and unlicensed wireless services and common carrier wireless exchange access services.

28. Pre-Existing Structure. Any telecommunications structure that existed prior to the effective date of this article or any telecommunications structure that exists outside the City limits either before or after the effective date of this article and is annexed into the City limits.

29. Provider. An entity licensed by the FCC or a state agency to transmit or receive electromagnetic or optical signals for television, radio, digital, microwave, cellular, telephone, personal communication system (PCS) or similar forms of wireless telecommunication. A tower builder is not a provider.

30. Screening. Materials that effectively hide personal wireless facilities from view, or landscaping in accordance with the requirements of the Zoning Ordinance.

31. Security Barrier. A wall, fence, or berm that has the purpose of sealing a wireless communication facility from unauthorized entry or trespass.

32. Stealth. A method of designing, constructing, and/or locating any telecommunications structure to blend in with the character and environment of the area in which it is located, and to enhance compatibility with nearby land uses and the area by minimizing visual impacts, incorporating the design principles.

33. Stealth Monopole. Any freestanding, monopole structure, 50 feet or less in total height, as measured from the ground, which incorporates stealth design principles, including but not limited to, camouflaging the structure as a tree, flagpole or light pole.

34. Telecommunications Structure (Structure). Any tower, stealth monopole or telecommunications facilities.

35. Telecommunications Facilities. Any cables, wires, lines, wave guides, antennas and any other equipment or facilities, including buildings, shelters or cabinets that house telecommunications providers' equipment, associated with the transmission or reception of communications that a person seeks to locate or has installed upon or near a commercial tower or antenna support structure.

36. Tower. A self-supporting lattice, guyed or monopole structure that supports telecommunications facilities for the purpose of providing personal wireless telecommunications services. The term tower shall not include stealth monopoles, as defined herein, or amateur radio operators' equipment, as licensed by the FCC.

37. Unlicensed wireless services. Commercial mobile services that operate on public frequencies and do not need a FCC license.

38. Wireless communication service and wireless communication facilities as used in the chapter shall be defined in the same manner as the Title 47, United States Code, Section 332 (c)(7)(C), as may be amended now or in the future and includes facilities for the transmission and reception of radio microwave signals used for communication, cellular phone, personal communication services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

D. APPLICABILITY

1. All wireless telecommunications facilities and antenna support structures, and any portion of which are located within the City, shall be subject to this article, except as follows:

   a. Amateur radio operators. This article shall not apply to any short-wave radio tower that is owned and operated by a federally licensed amateur radio station.

   b. Residential Antennas. This article shall not apply to accessory antennas attached to residential structures whose purpose is receiving television, radio, microwave, telephone, digital data or similar forms of wireless information transmission for the sole use of the occupants. A provider shall comply with this article to utilize a residential structure as an antenna support structure for its network, and shall obtain the appropriate permits as required.

c. Utility poles. This article shall not apply to utility poles, which are utilized solely for the support of electrical, telephone, cable television or similar cables and wires, located on public rights-of-ways or easements for that purpose, and are part of a system of such poles throughout the City.

d. Broadcast systems and facilities. This article shall not apply to towers or telecommunications facilities utilized for the transmission of signals that do not constitute personal wireless telecommunications services.

E. PERMITS

1. Permit Required: No person shall locate an antenna or tower for wireless communication purposes or alter an existing wireless communication facility upon any lot or parcel within the City except as provided in this article.

2. Application Requirements for Conditional Use Permits: Each application for a permit shall conform to the requirements of Article 7-702 of the Zoning Regulations regarding Conditional Uses, and the following shall be provided:

a. The name, address and telephone number of the landowner of any parcel of land or antenna support structure upon which the telecommunications structure will be situated. If the applicant is not the landowner, the applicant shall submit his or her name, address and telephone number. The landowner, owner and applicant shall sign the application.

b. The legal description and street address of the parcel of land, or antenna support structure, upon which the proposed telecommunications structure will be situated.

c. Elevation plans drawn to scale of all proposed wireless telecommunications facilities; an accurately scaled site plan showing existing buildings, proposed wireless telecommunications facilities and proposed landscaping and screening; and a written description of all proposed wireless telecommunications facilities and proposed quantities, types and sizes of landscaping materials.

d. Photographs of the site in its current condition, and accurately proportioned photo-realistic representations of the site showing the telecommunications structure in place with proposed landscaping and screening.

e. If the applicant is not the landowner, the landowner shall provide an affidavit indicating consent to develop upon the landowner's property. The landowner shall sign an agreement with the City that states if abandonment occurs, the landowner shall be responsible for the removal of the proposed telecom structure if the owner fails to remove it. (See also Section Q Abandonment) The landowner shall file the agreement with the Register of Deeds as a condition of approval of any permit for any telecommunications structure, and shall provide a copy of the filed agreement to the City prior to approval of the permit for the telecommunications structure. The agreement shall refer to the life mentioned in Section Q Abandonment.

f. An affidavit from the manufacturer or engineer describing the maximum capacity of the telecommunications structure for co-location, including the number and type of providers it can accommodate, with consideration of radio frequency interference, mass, height and other characteristics, as well as options to overcome any problems those considerations may pose to service delivery. The affidavit shall certify that the telecommunications structure has been designed and will be constructed to support the specified number of providers.

g. For a stealth monopole or tower application, certification from the engineer of the structure's manufacturer that the structure is designed and shall be constructed to ensure that a structural failure or collapse will not create a safety hazard to adjoining properties and that the structure will collapse on itself within the fall zone designated by the manufacturer.

h. Written statements from the applicant or engineer that indicate the following:

(1) The need for the telecommunications structure to provide or enhance personal wireless telecommunication services in the area, including: a map showing the location of the proposed telecommunications structure and its service area; the location of the providers' other existing wireless telecommunications facilities in the area; applicable propagation models, search ring maps and other relevant documentation.

(2) The minimum height required to serve the proposed service area.

(3) An explanation why the proposed site is required to meet service demands and how it would interact with the providers' other existing wireless telecommunications facilities in the service area.

(4) Proposed stealth measures designed to minimize potentially adverse visual effects on nearby properties, with consideration of design, unobtrusiveness, minimum height necessary to accommodate antennae, avoidance of artificial light and the color of the telecommunications structure.

(5) A description of the fall zone of the telecommunications structure.

(6) The distance between the proposed telecommunications structure and the nearest residential dwelling unit and residentially zoned properties.

(7) A description of the security barrier, if any, surrounding the base of the telecommunications structure, including the method of fencing, finished color and, if applicable, the method of camouflage and illumination.

i. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications structure and demonstrate compliance with FCC standards regulating radio frequency (RF) emissions. This information is used solely for public information, as the FCC has the sole jurisdiction to regulate RF emissions. The City will not condition or deny an application because of potential RF impacts.

j. When applicable, documentation that the proposed tower or stealth monopole meets FAA requirements.

k. Any other information requested by the City that is reasonably necessary for the City to fully evaluate the application.

l. An engineer shall provide the following written technical evidence:

(1) Evidence that existing wireless telecommunications facilities and antenna support structures within the proposed service area of the proposed telecommunications structure site are not capable of co-location to provide reasonable service to the proposed service area, due to height, capacity, structural strength or interference with other electromagnetic/radio frequencies, including, but not limited to, public safety communications, radio and television signals.

(2) Evidence that the proposed telecommunications structure meets the standards set forth in “Structural Requirements.”

(3) Evidence that the proposed site of the telecommunications structure does not pose a risk of explosion, fire or other danger to life or property due to its proximity to volatile, flammable, explosive or hazardous materials such as LP gas, propane, gasoline, natural gas or corrosive or other hazardous chemicals.

m. The applicant shall provide an affidavit, attesting to the following:

(1) That the applicant made diligent efforts to install or co-locate on existing wireless telecommunications facilities or antenna support structures within the proposed service area.

(2) That the fees, cost or contractual provisions required by the owner(s) of other wireless telecommunications facilities or antenna support structures within the proposed service area are unreasonable.

(3) That other limiting factors render the use of other wireless telecommunications facilities and antenna support structures within the proposed service area, unsuitable.

n. For towers, the applicant shall provide evidence that indicates why the use of alternative types of wireless telecommunications facilities, such as stealth monopoles or telecommunications facilities mounted on antenna support structures or municipal facilities, is insufficient or inadequate to meet the providers' service area needs.

F. PERMIT PROCESS

1. Conditional Use Permit. The Planning Commission and Governing Body shall consider a conditional use permit application subject to the requirements set forth above, and shall also take into account the following additional standards:

a. Whether substantial evidence exists to demonstrate that existing or approved wireless telecommunications facilities or antenna support structures are unsuitable for co-location or to serve the proposed service area.

b. Whether the proposed telecommunications structure(s) has incorporated a reasonable level of stealth design to minimize the visual impact of the telecommunications structure(s), given the type of telecommunications structure and the character of the area in which the structure(s) is proposed to be located.

2. Written Findings Required. Any decision to deny a Conditional Use Permit, under this section shall be made in writing and shall state the specific reasons for the denial. Any denial by the Governing Body shall be deemed a final administrative decision, subject to judicial review and appeal. In the event that a permit application is denied by the Governing Body, no new request for the same or substantially similar permit shall be accepted or processed within six (6) months after denial of that application.

3. Protests. The notification and protest area for permit applications shall be four hundred (400) feet from the proposed tower site. The protest procedure shall be as provided in K.S.A. 12-708 and Article 7 of the Haysville Zoning Code.

G. PRE-EXISTING STRUCTURES

1. Pre-existing structures shall meet all requirements of this article upon modification, in accordance with these regulations.

2. All pre-existing structures shall comply with the following requirements of this Article:

   a. "Building Permits, Certifications and Inspections."
   b. "Maintenance."
   c. "Abandonment."

H. BULK REGULATIONS

1. Maximum Height.
   a. The height of a tower or stealth monopole shall be regulated by this article.

   b. The height of a tower, including any antenna, shall not exceed one-hundred-fifty (150) feet, as measured from the ground. The maximum height limitation does not include a lightning rod, which shall not exceed an additional twenty (20) feet in height.

   c. The total height of a stealth monopole shall not exceed fifty (50) feet, as measured from the ground.

   d. The following height requirements shall apply to telecommunications facilities mounted externally on antenna support structures or municipal facilities:

(1) On structures 30 feet in height or less, telecommunications facilities shall be mounted consistent with the "Stealth Design Principles."

(2) On structures between 30 and 60 feet in height, telecommunications facilities shall not extend more than a combined height of 75 feet, including the structure on which it is mounted upon.

(3) On structures 60 feet in height or more, telecommunications facilities shall not extend more than 75 feet, including the structure on which it is mounted upon.

2. Setback Restrictions.

a. Towers. Towers shall be set back from all property lines a distance equal to the fall zone of the tower, as certified by the structure manufacturer's engineer. If the fall zone is not ascertainable, the tower shall be set back from all property lines a distance equal to the height of the tower, including any antenna, plus other appurtenances.

b. Stealth Monopoles. Stealth monopoles shall be set back from all property lines a distance equal to the fall zone of the structure, as certified by the structure manufacturer's engineer. If the fall zone is not ascertainable, the stealth monopole shall be set back from all property lines a distance equal to the height of the stealth monopole, including any antenna, plus other appurtenances.

c. Accessory ground-level equipment including guy-wire anchors shall follow the setbacks for accessory uses in the applicable zoning district.

I. STRUCTURAL REQUIREMENTS

1. All wireless telecommunications facilities shall be designed and certified by an engineer to be structurally sound and shall, at a minimum, be in conformance with these regulations and all applicable federal and city codes.

2. All towers and stealth monopoles shall be designed and constructed to collapse on themselves to minimize the impact on surrounding properties.

3. No new tower or stealth monopole shall be built, constructed or erected in the City unless the tower is capable of co-location. All new towers less than 100 feet in height and stealth monopoles shall provide space for at least two (2) separate providers. All new towers one-hundred (100) feet or higher in height shall provide space for at least three (3) separate providers.

J. USE LIMITATIONS

1. Stealth Design: The Governing Body may require stealth design of a tower or telecommunications facility, in accordance with regulations, depending on the character of the proposed location and type of tower or telecommunications facility.

2. Illumination:
   a. Towers shall not be artificially lighted except as required by the FAA.

   b. Notwithstanding subsection (1), in the case of a stealth telecommunications structure, illumination may be provided that is appropriate and customary for the type of stealth structure, as approved by the Governing Body.

   c. Security lighting may be installed around the base of a tower or accessory telecommunication facilities, provided the lighting is a full cut-off design to prevent direct light from being cast upon nearby property and to prevent glare on nearby public streets, as approved by the Governing Body.

3. Security Fencing: The Governing Body, may require the installation of a security fence around all sides of a telecommunications structure located at ground level, and shall review and approve the material and design of any fencing to ensure that it will in fact serve to secure the facility.

4. Screening and Landscaping: All landscaping on a parcel of land containing wireless telecommunications facilities and/or antenna support structures shall conform to the applicable landscaping requirements, if any, in the zoning district where the structure is located. The Governing Body may require year-round landscaping and/or screening in order to reduce visual impacts and enhance the compatibility of telecommunications structure(s) with the character of nearby land uses and the area. Such screening may consist of walls, fencing and/or landscaping or combinations thereof, as approved by the Governing Body, but any such screening may be reviewed to determine that it does in fact screen the facility from view.

5. Parking and Access. The parcel of land upon which a telecommunications structure is located shall contain at least one (1) off-street parking space on the site, and shall otherwise conform with the requirements of Article 5-500, Off-Street Parking Requirements.

K. SIGNS

1. Signs Prohibited. No signs, flyers, flags or banners, shall be permitted on any telecommunications structure, except as may be required by the FAA, FCC, other federal or state agency or the City. A flag may be hung on an approved stealth flagpole structure in accordance with regulations.

2. Removal of Signs. The owner shall remove any sign placed on any telecommunications structure in violation of this section within seven (7) days of receiving notice of removal from the City.

3. Notwithstanding any contrary provisions of the city's zoning ordinance, the following warning signs shall be utilized in connection with the tower or antenna site, as applicable:

a. If high voltage is necessary for the operation of the tower or associated equipment, "HIGH VOLTAGE--DANGER" warning signs shall be permanently attached to each side of the fence or wall surrounding the structure.

b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart; (a) the height of the lettering of the warning signs shall be at least twelve (12) inches and the signs shall be installed at least five (5) feet above the finished grade; (b) the warning signs may be attached to freestanding poles if the content of the sign may be obstructed by landscaping.

c. A sign on the gate indicating the name and address of the tower owner and a phone number where the tower owner can be reached twenty-four (24) hours a day in case of an emergency shall be permanently attached to the fence.

L. STEALTH DESIGN FOR WIRELESS TELECOMMUNICATIONS FACILITIES

1. Stealth wireless telecommunications facilities shall be designed to blend in with the character and environment of the area in which they are proposed to be located, and to enhance compatibility with nearby land uses by minimizing visual impacts. Stealth wireless telecommunications facilities shall incorporate the following design principles, as applicable to the type of telecommunications structure and character of the location:

   a. Preserve the pre-existing character of the area as much as possible.

   b. Minimize the height, mass and proportion of wireless telecommunications facilities to minimize impacts on the character of the nearby area.

   c. Minimize the silhouette presented by new towers, stealth monopoles, antenna support structures and antenna arrays. Monopoles are favored over lattice-type towers; antennas mounted inside an antenna support structure or monopole, or mounted flush to the antenna support structure, are favored over triangular “top-hat” or other projecting external types of antenna arrays.

   d. Use colors, textures and materials that blend in with the existing environment; surfaces shall be painted, or otherwise treated, to match or complement existing background structures and surfaces, and to minimize reflection.

   e. Conceal telecommunication facilities from view by placing inside a building, steeple, penthouse, clock tower, flagpole or other appropriate structure. Architectural additions or appurtenances to existing antenna support structures that are intended to conceal telecommunication facilities, shall be designed to be appropriate in mass, scale, material, texture, color and character with the existing antenna support structure.

f. Camouflage and/or disguise wireless telecommunications facilities to look like another type of structure or object, through methods including, but not limited to design, placement, use of materials, texture, color, year-round landscaping and screening, to blend in with the character of the surroundings, or integrate into the architectural elements and character of an existing antenna support structure to such an extent that it is indistinguishable by the casual observer from the structure on which it is located, or from the surroundings in which it is placed. Stealth monopoles designed to look like a flagpole shall utilize a flag that is appropriately sized for the height of the pole. Stealth monopoles disguised as a tree shall be of a height, character and placement that is appropriate to the location. Wireless telecommunications facilities mounted on roofs or similar structures shall be concealed from view by placement and setback from the edges and/or through use of architectural screening that is in character with the building or antenna support structure.

g. Locate wireless telecommunications facilities in areas where trees and/or buildings obscure some or all the wireless telecommunications facilities from view, and install new year-round landscaping and screening around the site where visible from public streets or residential areas.

h. Locate accessory equipment inside a building or in underground vaults when possible. Screen ground-level wireless telecommunications facilities through use of walls, fencing or year-round landscaping, or combinations thereof, which is appropriate in design, height and material to the character of the location and the structure to be screened.

M. MODIFICATION AND REPLACEMENT

1. Modification to existing site. Up to fifty (50) percent of the height of an existing tower may be replaced with no resulting increase in height as part of modifications made to provide for co-location of a new facility. Replacement of more than fifty (50) percent shall be considered a new tower and shall meet all of the applicable requirements for new construction.

2. Rebuilding damaged or destroyed existing site. If more than fifty (50) percent of the tower or facility is damaged or destroyed, it shall be considered a new facility and shall meet all the applicable requirements for new construction. All replacement shall comply with then applicable building codes and a new conditional use permit and building permit shall be obtained and be completed within one hundred eighty (180) days from the date the tower or facility was damaged or destroyed. If no permit is obtained or it expires, or replacement is not timely completed, the tower of facility shall be deemed abandoned.

N. BUILDING PERMITS, INSPECTIONS AND CERTIFICATIONS

1. The applicant shall apply for and receive all applicable City permits prior to the construction of an antenna support structure or telecommunications structure. Wireless telecommunications facilities shall conform to the requirements of the applicable city codes and all other construction standards set forth by federal and state law. The City shall inspect the antenna support structure or telecommunications structure and issue a certificate of occupancy prior to use by the providers. It shall be a violation of this subsection for an owner to construct or use a telecommunications structure without the required permit, inspection or certificate of occupancy.

2. An engineer shall certify that all wireless telecommunications facilities are structurally sound. For new wireless telecommunications facilities, such certification shall be based upon the construction plans, and shall be submitted with an application. The City may require subsequent certifications if the City reasonably believes that the structural and/or electrical integrity of the telecommunications structure is jeopardized. Failure to comply within seven business days of such request shall be grounds for revoking such structure's occupancy permit, and ceasing operations until compliance is achieved.

O. MAINTENANCE

1. Owners shall employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public including sufficient anti-climbing and other measures to reduce the potential for trespass or injury.

2. Owners shall install and maintain wireless telecommunications facilities, fixtures and other equipment in compliance with the requirements of all federal, state and local codes and regulations, and in such manner that will not interfere with the use of other property.

3. All wireless telecommunications facilities shall be maintained in good condition, order and repair.

4. Licensed maintenance and construction personnel shall perform all maintenance and construction of wireless telecommunications facilities.

5. All wireless telecommunications facilities shall comply with the current RF emission standards, as determined by the FCC.

P. ABANDONMENT

1. The owner and/or provider of a telecommunications structure shall provide the City a copy of its notice to the FCC of intent to cease operations. The owner shall remove the structure at the owner's expense within one hundred and eighty (180) days from the date of abandonment. If the owner and/or provider fail(s) to provide the City with the proper notice of intent to cease operations, the structure may be declared a nuisance and dangerous structure by resolution of the Governing Body. A copy of such resolution and a written notice to remove the structure shall then be issued to both the landowner and the structure's owner(s) by registered mail and regular mail to the addresses provided with the application, or to any updated addresses previously provided to the City by the structure owner and/or landowner. The resolution shall also be published in the City's official newspaper. Failure to remove the abandoned structure within ninety (90) days of issuance of such mailings shall be grounds for the City to remove the structure with all costs of removing such dangerous and nuisance structure assessed against the landowner. The removal process shall be as set forth in the Haysville Code for removal of nuisance and/or dangerous buildings.

2. If the owner does not remove the structure within the required time period, the City shall require that the landowner remove the structure pursuant to the agreement between the City and the landowner (see Section F.2.e.) If the landowner further refuses to remove the structure as required, the City shall remove the structure and place a lien on the property in the amount of all direct and indirect costs associated with the dismantling and disposal of the structure.

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Article 6. Nonconforming Lots & Structures

600 PURPOSE, POLICY AND APPLICABILITY

A. Purpose. The purpose of this section is to establish regulations that govern uses, structures, lots and other current circumstances that came into being lawfully but that do not conform to one or more requirements of this Code, in compliance with K.S.A. 12-771.

B. Policy. It is the general policy of the City to allow uses, structures or lots that came into existence legally and in conformance with then-applicable requirements but that do not conform to all of the applicable requirements of this Code to continue to exist and beused productively, while working to bring as many aspects of such use into conformance with the current Zoning Code as is reasonably practicable, and to terminate the right to carry out any nonconforming use as soon as such nonconforming use actually ceases, all subject to the limitations of this section. The limitations of this section are intended to recognize the interests of the property owner in continuing to use the property in a manner that no longer conforms to the requirements of this code but to control the expansion of the nonconformity and to control re-establishment of abandoned uses and limit re-establishment of buildings and structures that have been substantially destroyed.

C. No nonconformities created by adoption of the March 15, 1999 Zoning Regulations. No use of a building, structure or property that was in existence on March 14, 1999, and complied with the zoning ordinance or zoning resolution in effect prior to March 15, 1999, shall become or be deemed to have become nonconforming or noncomplying due to adoption of this Code. Any use of a building, structure or property and any building, structure or property that complied with the zoning ordinance or zoning resolution in effect prior to March 15, 1999 may be rebuilt, repaired or otherwise re-established to the extent that it existed on March 14, 1999. The burden of proof to establish that any contested use was in existence on March 14, 1999, and the scope of such use upon that date, is upon the property owner claiming the applicability of this section.

601 NONCONFORMING USES

A. Maintenance and repair. Any structure which is part of a nonconforming use may be repaired or altered on the same terms set forth, under Section 602.1of this section.

B. Enlargement and expansion within a building and enlargement and expansion of a building. A nonconforming use may be expanded within the floor area of an existing, conforming structure or within an expanded structure, subject to the limitations listed herein. In any residential district, such expansion shall be permitted into an area equal to the original floor area of the nonconforming use, when the expansion:

1. Does not increase the number of dwelling units;

2. Includes plans for all off-street parking and loading required to serve the expansion area;

3. If greater than 50 percent of the original floor area, is found by the Board of Zoning Appeals to be compatible with the neighborhood and not detrimental to the community, as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, and the availability of adequate public facilities and services.

C. Expansion of outdoor nonconforming uses. A nonconforming use of premises for which the principal use is not enclosed within a building, such as a salvage yard or a motor vehicle sales lot, may not be expanded except if such use may be expanded in a manner that conforms to the requirements of this Code. The Board of Zoning Appeals shall review a plan to enlarge a nonconforming use with a conforming use to determine whether the nonconforming use may be brought into conformity with the zoning code as part of the development of such expansion.

D. Change in use. A nonconforming use may be changed to a new nonconforming use, provided that the new use shall be of a character less intensive (and thus more closely conforming) than the existing, nonconforming use. The initial determination of whether a proposed new use is a conforming use or is a less intense nonconforming use shall be made by the Public Works Director, or his/her designee, with an appeal to the Board of Zoning Appeals. In either case, the determination shall be based on the use hierarchy established by the Zoning Regulations. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, may not thereafter be changed back to the less conforming use from which it was changed.

602 NONCONFORMING STRUCTURES

A. Maintenance and repair. Remodeling of a nonconforming structure within the existing building footprint shall be permitted without a zoning variance, all in conformance with current building codes. Any nonconforming structure damaged to the extent of 50 percent or less of its fair market value by fire, wind, tornado, earthquake, or other natural disaster, may be rebuilt in conformance with current building codes, provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences) or floor areas or ground coverage (for nonresidential uses). The structure shall not be rebuilt closer to the property line than the original structure or the applicable setback lines, whichever is closer. Nonconforming structures damaged 50% or less of their fair market value by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the adopted building code related to construction in flood hazard areas. Any building so damaged more than 50 percent of its value may not be rebuilt, repaired, or used unless it is made to conform to all regulations for buildings in the district in which it is located, provided that such restoration as may be made is to the fullest extent possible in conformance with development standards.

B. Enlargement and expansion. Any expansion of the nonconforming structure that increases the degree of nonconformance is prohibited. Expansions of the structure that do not increase the degree of nonconformance shall be permitted and shall not require a variance. The initial determination of whether a proposed expansion increases the degree of nonconformity shall be made by the Public Works Director or his/her designee, with an appeal to the Board of Zoning Appeals.

C. Relocation. If a nonconforming structure is relocated within the area to which this Code is applicable, it shall be placed only in a location in which it fully conforms to the requirements of this Code.

D. Unsafe structures. Nothing in this section shall be construed to permit the continuing use of a building found to be in violation of basic life, safety or health codes of the City. The right to continue to use a noncomplying structure shall be subject to all applicable housing, building, health and other life safety and health codes of the City.

603 NONCONFORMING LOTS

A lot shown on an approved and recorded subdivision plat on the date on which this Code became applicable to the lot, or a parcel shown on the assessor's records as a separate parcel on such date may be occupied and used although it may not conform in every respect with the dimensional requirements of this Code, subject to the provisions of this section.

A. Vacant lot. If the lot or parcel was vacant on the date on which this Code became applicable to it, then the owner may use the property as permitted by the applicable zoning district, provided that the use shall comply with applicable dimensional requirements of this Code to the maximum extent practicable. If the applicable zoning district permits a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable setback requirements while others would not, then only the uses or intensities that would conform with the applicable setback requirements shall be permitted. Otherwise the owner may seek a variance from such requirements from the Board of Zoning Appeals.

B. Lot with building or structure. If the lot or parcel contains a building or structure on the date on which this code becomes applicable to it, then the owner may continue the use of that building or structure and may reasonably expand the structure in any way that does not increase the degree of nonconformity. An increase in building size shall not be deemed to increase the degree of nonconformity unless it increases the encroachment on a required setback. Remodeling of a structure within the existing building footprint or expansion in compliance with this section shall not require a variance but shall be reviewed by the Public Works Director or his/her designee as though the lot were conforming.

C. Lot merger. If the lot or parcel is smaller than would otherwise be required by this Code and such lot or parcel is at any time on or after the date on which this Code became applicable to such lot or parcel under common control with an adjacent lot or parcel, then the two shall be considered merged for purposes of this Code and shall in the future be considered together for purposes of determining compliance. If the merged lots or parcels contain sufficient area for the actual or proposed use, then they shall be deemed fully conforming. If the merged lots or parcels together do not contain sufficient area for the actual or proposed use, they shall nonetheless be considered together for purposes of reducing the degree of nonconformity. When a nonconforming lot or parcel shall not again be used as a separate lot or parcel, unless it is subdivided from the lot or parcel with which it has been merged; subdivision shall require full compliance with the requirement of this Code and the applicable subdivision regulations.

604 OTHER NONCONFORMITIES

A. Examples of other nonconformities. The types of other nonconformities to which this section applies include but are not limited to: fence height or location; lack of buffers or screening; lack of, or inadequate, landscaping; lack of, or inadequate, off-street parking; and other nonconformities not involving the basic design or structural aspects of the building, location of the building on the lot, lot dimensions or land or building use. However, a nonconformity other than those enumerated in Sections 601, 602 and 603 shall be brought into conformance upon the occurrence of any one of the following:

1. Any increase on the premises of more than 30 percent floor area or 50 percent value;

2. For a property in a commercial or industrial zone, any change in use to a more intensive use when a new certificate of occupancy is required.

B. The requirement that nonconformities be brought into conformance shall be subject to variance by the Board of Zoning Appeals where it finds that such conformance would involve an unreasonable hardship.

C. Policy. Because other nonconformities involve less investment and are more easily corrected than those involving lots, buildings and uses, it is generally the policy of the City to eliminate such other nonconformities as quickly as practicable.

D. Increase prohibited. The extent of such other nonconformities shall not be increased, with or without a variance.

605 NONCONFORMITIES CREATED BY PUBLIC ACTION

Nonconformities created by public action. When lot area or setbacks are reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum standard for the district in which it is located, then that lot shall be deemed to be in compliance with the minimum lot size and setback standards of this Code without resort to the Board of Zoning Appeals.

606 DISCONTINUANCE

A. Nonconforming use. When a nonconforming use has been abandoned, such nonconforming use shall not be renewed. When a building containing a nonconforming use has been destroyed or damaged to an extent exceeding 50 percent of its fair market value, such nonconforming use shall terminate and shall not be renewed and the building shall not be restored in a way that is designed primarily fora nonconforming use.

B. When abandoned. A nonconforming use shall be presumed abandoned when any of the following has occurred:

1. The owner has in writing or by public statement indicated intent to abandon the use;

2. A less intensive use has replaced the original nonconforming use;

3. The building or structure has been removed through the applicable procedures for the condemnation of unsafe structures;

4. The owner has physically changed the building or structure or its permanent equipment in such a way as to indicate clearly a change in use or activity to something other than the nonconforming use; or

5. The property, if a land use conducted primarily outside of a building, has been vacant or completely inactive for 12 months;

6. The property, if a land use conducted primarily inside of a building, has been vacant or completely inactive for 24 months.

C. Overcoming presumption of abandonment. A presumption of abandonment based solely on the length of time a land use has remained vacant or inactive may be rebutted within 90 days of such use being deemed abandoned upon a showing, to the satisfaction of the Board of Zoning Appeals, that during such period of vacancy or inactivity the owner of the land or structure:

1. has been maintaining the land and structure in accordance with the all applicable building codes, ; and

   a. has been actively and continuously marketing the land or structure for sale or lease based upon the existence of the nonconforming use; or

2. has been engaged in other activities that would affirmatively prove that there was not an intent to abandon.

607 DETERMINATION OF NONCONFORMITY STATUS

In all cases, the property owner shall have the burden of establishing that a nonconforming use or nonconforming structure lawfully exists under this Code.

608 REGISTRATION ON NONCONFORMITIES

A. Rights conditional. The rights given to those using or owning property involving nonconformity are specifically conditioned on the registration of the nonconformity with the Public Works Director, or his/her designee.

B. Registration process. The Public Works Director, or his/her designee, shall establish a process for the registration of nonconformities and shall establish a system for keeping records of such nonconformities. The Public Works Director, or his/her designee, shall provide registration forms for this purpose.

C. Registration deadlines. Property owners shall have one year from the date on which the nonconformity first became nonconforming to register it. Subject to the verification procedures established by the Public Works Director, or his/her designee, nonconformities so registered shall be deemed to be lawful nonconformities, to the extent documented on the registration form. All rights to continuance, maintenance, repair and other continuation of the nonconformity shall apply.

D. Effect of not registering, appeal. The Public Works Director or his/her designee shall refuse to permit the expansion, continuance, repair, maintenance or other continuation of nonconforming status for nonconformity not registered in accordance with this section. An aggrieved party may appeal such denial to the Board of Zoning Appeals, which may grant a late registration status to the nonconformity if it finds that:

1. The failure to register the nonconformity occurred because the owner was unaware that the situation was nonconforming or from excusable neglect; and

2. The nonconformity was established lawfully in conformance with the then applicable Zoning Code, or is otherwise entitled to protection under a specific section of this Article.

E. If the Board of Zoning Appeals grants late registration status to the nonconformity, the owner shall then be entitled to all of the rights accorded to the nonconformity as though it were registered in accordance with the requirements of this section.

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Article 7. Administration & Enforcement

700 AMENDMENTS

A. The Governing Body may, from time to time, on its own motion or on petition, as provided herein, amend, supplement, change, modify, or repeal the regulations and restrictions as established herein and may change, restrict, or extend the boundaries of the various districts established herein.

B. Relevant matters considered when approving or disapproving zoning requests, may not necessarily be given the same weight in relation to any proposed amendment, including but not limited to, the following:

1. the character of the neighborhood;

2. the zoning and uses of properties nearby;

3. the suitability of the subject property for the uses to which it has been restricted;

4. the extent to which removal of the restrictions will detrimentally affect nearby property;

5. the length of time the subject property has remained vacant as zoned;

6. the relative gain to the public health, safety and welfare by the destruction of the value of petitioner's property as compared to the hardship imposed upon the individual landowners;

7. recommendations of permanent staff; and

8. conformance of the requested change to the adopted or recognized master plan being utilized by the city.

C. All such proposed amendments first shall be submitted to the planning commission for recommendation. The planning commission shall hold a public hearing thereon.

1. If such amendment, modification, change, restriction, or repeal is a general revision of existing ordinance, notice of such public hearing shall be published at least once in the official city newspaper at least 20 days prior to the date of the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms.

2. If such amendment, modification, change, restriction, or repeal is not a general revision of existing ordinance and will affect only specific property, it shall be designated by legal description and general location, and in addition to public notice as described in 700(C)(1) above, written notice of such proposed action shall be mailed to all owners of real property located within 200 feet of the nearest property line of the area proposed to be altered, and opportunity shall be granted to all interested parties to be heard at the public hearing. If the proposed property is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet into any unincorporated area. Lists of affected properties and property owners shall be established through a certified document provided by a title company.

3. Whenever the City initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, such amendment shall require notice by publication and hearing in like manner as that required by subsection (C)(2). In addition, written notice shall be required to be mailed to only owners of record of the properties to be rezoned and only such owners shall be eligible to initiate a protest petition, in accordance with K.S.A. 12-757(c)(2).

4. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available.

5. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the planning commission or the governing body.

6. Any notice in compliance with the provisions set forth above is sufficient to permit the planning commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation of a zoning classification of lesser change than that set forth in the notice shall not be valid without republication and, where necessary, remailing, unless the planning commission has previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard in accordance with the procedural rules of the planning commission.

D. An accurate written summary of the Public Hearing held by the Planning Commission shall be made. The Public Hearing may be adjourned from time to time. Within 60 days following the public hearing, the Planning Commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the same in the form of the proposed change, either general or property specific, and shall submit the same, together with the written summary of the hearing thereon, to the Governing Body. If the planning commission fails to make a recommendation within 60 days following a public hearing, the planning commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing, shall be submitted to the Governing Body for further action.

E. Regardless of whether or not the planning commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the office of the city clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned, or by the owners of record of 20% or more of the total real property within the area required to be notified of the proposed rezoning of a specific property, excluding streets and public ways, the ordinance adopting such amendment shall not be passed except by at least a three-fourths vote of all the members of the Governing Body. For the purpose of determining the sufficiency of a protest petition, if the proposed rezoning was requested by the owner of the specific property subject to the rezoning, or the owner of the specific property subject to the rezoning does not oppose in writing such rezoning, such property also shall be excluded when calculating the total real property within the area required to be notified.

F. Upon receipt of the recommendation from the Planning Commission, the Governing Body either may: (1) Approve such recommendations by the adoption of the same by ordinance; (2) override the planning commission's recommendations by a 2/3 majority vote of the membership of the Governing Body, and approve an action deemed appropriate by such majority of such body; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

G. If the Governing Body returns the planning commission's recommendation for further consideration, the planning commission, shall at its next regularly scheduled meeting consider the same, and after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Except as otherwise required by 700(E) above, upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt, or may revise or amend and adopt, such recommendation by ordinance, or it need take no further action thereon. If the planning commission fails to deliver its recommendation to the Governing Body following the planning commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly.

H. If such amendment affects the boundaries of any zone or district, the respective ordinance shall describe the boundaries as amended, or if provision is made for the fixing of the same upon an official map which has been incorporated by reference, the amending ordinance shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment, shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.

I. Any approved rezoning or zoning code amendment shall become effective upon publication of the adopting ordinance.

701 CHANGES BY INDIVIDUALS OR GROUPS

A. Application in writing for any changes in district boundaries or reclassification of any lot, tract, or parcel of land located in the city shall be filed with the commission and accompanied by such data and information as may be prescribed by the commission so as to assure fullest possible presentation of facts for the permanent record.

B. As such applications for changes or reclassification will affect specific property, it shall be designated by legal description and general street location, and shall be accompanied by a certified list, prepared by an abstract company, of all owners of real property within 200 feet of the area proposed to be changed or reclassified, excepting public streets and ways, located within or without the corporate city limits of the city. If the proposed amendment to property is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

C. For process for such amendment, refer to Section 700.

D. A filing fee of $200 and a publication fee of $75 shall be paid to the city clerk upon filing each such application for each lot, tract, or parcel included in the application to change district boundaries or reclassify an area for the purpose of defraying costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.

E. Whenever five or more property owners of record owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, notice and protest petition requirements shall be in accordance with the provisions of K.S.A. 12-757 (c)(1).

702 CONDITIONAL USES

The Governing Body may, from time to time, on its own motion or on petition, in the manner provided for herein, authorize in specific cases such conditional uses as are expressly allowed in the various districts.

A. Application. An application in writing for such conditional use shall be filed with the commission, accompanied by such data and information as may be prescribed by the commission so as to assure the fullest possible presentation of facts for the permanent record.

1. On the application, the property for which the conditional use is sought shall be designated by legal description and general street location.

2. Accompanying the application, a certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. If the proposed designated property is located in the "AAA" Residential District, or adjacent to the "AAA" Residential District, the area of notification of the action shall be extended to at least 1,000 feet in the "AAA" Residential District. If the proposed designated property is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

3. A filing fee of $200 and a publication fee of $75 shall be paid to the city clerk upon the filing of each application for each lot, tract, or parcel included in the application for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the person making such payment and the records thereof shall be kept in such a manner prescribed by law.

B. Public Hearing. The commission shall establish the time and place of the public hearing.

1. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.

2. In addition to such public notice, written notice of such conditional use shall be mailed to all property owners and applicable addresses within 200 feet of the property (excepting public streets and ways) and an opportunity granted to interested parties to be heard at the public hearing. If the proposed designated property is located in the "AAA" Residential District, or adjacent to the "AAA" Residential District, the area of notification of the action shall be extended to at least 1,000 feet in the "AAA" Residential District. If the proposed designated property is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

C. Consideration. The objective of permitting specific conditional uses within a district is to provide adequate consideration of the conditions in terms of this Code to assure:

1. That proposed uses will not be contrary to the public interest.

2. That the spirit of the Code is observed.

3. That public safety and welfare is secured.

4. That substantially equal treatment under the law is preserved.

D. Criteria. The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a conditional use may be developed by the commission and incorporated into any recommendation in support of the requested conditional use.

1. Access and traffic load and/or flow.

2. Noise, light and odor.

3. Screening.

4. Parking, refer to parking section.

5. Services (public utilities).

6. Public health and safety.

7. Adequacy of facility and lot size.

8. Signs.

9. Review by fire marshal for designation.

10. Time limitations for implementing/beginning the use upon the property may be incorporated within the conditions of the conditional use when appropriate to ensure that when the use is begun the criteria upon which the conditional use was approved remains essentially the same.

11. Sunset provisions may be incorporated within the terms of the conditional use in accordance with the same standards set forth in Article 6 regarding abandonment of use.

12. Other considerations as appropriate.

E. Action. An accurate written summary of the Public Hearing held by the Planning Commission shall be made. The Public Hearing may be adjourned from time to time. Within 60 days following the conclusion of the public hearing, the Planning Commission shall prepare its recommendations, and by an affirmative vote of a majority of the entire membership of the commission either 1) adopt the recommendation including any conditions to be met in allowing the conditional use, or 2) deny the application including a statement of the reason(s) for such denial, and the recommendation, together with the written summary of the public hearing thereon, shall be submitted to the Governing Body. If the planning commission fails to make a recommendation on a conditional use request within the allotted timeframe, the planning commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing, shall be submitted to the Governing Body for further action.

F. Upon receipt of the recommendation from the Planning Commission, the Governing Body either may: (1) Approve such recommendation by the adoption of an Order; (2) override the planning commission's recommendations by a 2/3 majority vote of the membership of the Governing Body, and adopt an Order setting forth the action determined appropriate by such majority of that body; or (3) may return the recommendation to the planning commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

G. If the Governing Body returns the planning commission's recommendation for further consideration, the planning commission, shall at its next regularly scheduled meeting consider the same, and after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Except as otherwise required by 700(E) above, upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt, or may revise or amend and adopt, such recommendation by Order, or it need take no further action thereon. If the planning commission fails to deliver its recommendation to the Governing Body following the planning commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly.

H. Protest. The same protest provisions set forth in Section 701 above shall apply to this conditional use process.

I. Existing Conditions. Uses which were legal at the time of the adoption of this zoning ordinance that would be conditional uses under the zoning ordinance shall be considered nonconforming uses and shall be continued and maintained in conformance with the provisions of Section 600.

703 ENFORCEMENT OF THESE REGULATIONS

A. It shall be the duty of the Director of Public Works, or designee, to enforce the provisions of this Code and to refuse to issue any permit for any building or structure, or for the use of any premises that would violate any of the provisions hereof, and to cause any building, structure, place, or premises to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or be in violation of any provision of this Code.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Code, the Director of Public Works, or designee, is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation and to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, or use in or about such premises.

704 PERMITS

A. The existing character of structures and the use and occupancy of premises shall not be changed, nor shall any building, the use of which is proposed to be altered or changed, be hereafter erected or altered until a permit shall have been approved by the Director of Public Works, or designee, and issued by the city clerk stating that the proposed uses of such building or premises complies with all the provisions of this Code.

B. Application for permits shall be on forms approved by the Director of Public Works, or designee, and shall be filed with the city clerk. A record of all applications and permits shall be kept on file in the office of the City Clerk. If an application for a permit is made after the work for which the permit is sought has begun, then the cost of the permit hall be double the cost of a permit that is obtained prior to the time work has begun.

C. No permit shall be issued unless the application shows that the proposed structure and use will conform to the provisions of this Code.

D. Permits must meet the requirements of the City Subdivision Regulations and, thus, shall not be issued on land which is not shown on a recorded plat or replat, or a lot split, except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses. If platting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required at the applicants' expense, including, but not limited to, dedications in lieu of platting such as for easements and additional rights-of-way.

E. An appeal may be taken to the Governing Body from the action of the Director of Public Works, or designee, denying any permit by filing a notice of appeal, specifying the grounds therefore, with the City Clerk. The City Clerk shall schedule a hearing for the applicant before the Governing Body within thirty (30) days of receipt of such notice of appeal. If the Director of Public Works', or such designee's, action is determined to be justified because of noncompliance to this Code, the applicant shall be directed to the commission, as appropriate, to comply prior to issuance of any permit.

705 PENALTY

Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine of not to exceed $500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

706 VALIDITY

If a section, paragraph, clause, or provision of these regulations shall be declared invalid by any court or competent jurisdiction, the same shall not affect the validity of the Code or any part of provision thereof, other than the part so declared to be invalid.

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ARTICLE 8. SUBDIVISION REGULATIONS

800 SUBDIVISION REGULATIONS INCORPORATED

It is hereby incorporated by reference as if set out fully herein, the Subdivision Regulations adopted by the Governing Body of the City of Haysville, Kansas, by Ordinance, effective. No fewer than three copies of the Zoning and Planning regulations, including Article 8 relating to the Subdivision Regulations, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours.

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ARTICLE 9. CREATION OF A PLANNING COMMISSION

900 PLANNING COMMISSION CREATED

A planning commission for the City of Haysville is hereby created and shall hereinafter be referred to as the commission.

901 MEMBERS

The number of members of the planning commission is hereby fixed at 11 members of which number two members shall reside outside of but within three miles of the corporate limits of the city, and the remaining members shall be residents of the city.

902 APPOINTMENT

The members of the planning commission shall be appointed by the mayor, by and with the consent of the city council, in all respects as required by law.

903 SAME; TERM OF OFFICE

The term of office of the members of the Planning Commission shall be for three years. At the end of the three year term, the member may be reappointed with the approval of the city council. Vacancies shall be filled for unexpired terms only.

904 JURISDICTION

Jurisdictional boundaries of planning commission are hereby established as shown on the map designated as the "Zoning Jurisdiction Map," which such map shall include:

A. Total jurisdiction within city limits;

B. Primary recommendation within zone of influence, three mile ring, where overlap occurs within the city's zone of influence.

C. Secondary recommendation within zone influence, three mile ring, where overlap occurs within the city's zone of influence.

Such map and all notations, references and the information shown thereon are hereby made a part of this chapter as if the same were set forth in full herein. It shall be the duty of the Planning Commission Secretary to keep on file in his or her office an authentic copy of the map, all changes, amendments or additions thereto and duplicate copies thereof shall be kept on file in the office of the commission and building inspector.

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ARTICLE 10. CREATION OF A BOARD OF ZONING APPEALS

1000 BOARD OF ZONING APPEALS CREATED

A board of zoning appeals for the City of Haysville is hereby created under the authority of K.S.A. 12-713 and shall hereinafter be referred to as the board.

1001 MEMBERS

The membership of the board is hereby fixed at five members, all of whom shall be residents of the city. None of the members shall hold any other office of the city, except one member may be a member of the commission.

1002 APPOINTMENT

The members of the board shall be appointed by the mayor by and with the consent of the city council in all respects as required by law.

1003 SAME; TERM OF OFFICE

The term of office of the members of the Board shall be for three years. At the end of the three year term, the member may be reappointed with the approval of the city council. Vacancies shall be filled for unexpired terms only.

1004 ORGANIZATION AND RESPONSIBILITIES

The board shall adopt rules and/or regulations for the conduct of its business in accordance with the provisions of the Zoning Regulations of the City of Haysville, Kansas. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing evidence presented, findings of fact by the board, decision of the board and the vote of each member upon each question or if absent or failing to vote, indicating such fact. Records of all official actions of the board shall be filed in its office and shall be public record. The board shall annually elect one of its members as chairperson and shall appoint a secretary who shall not be a member of the board but may be an employee of the city. The secretary shall have no vote in the matters before the board.

1005 APPEALS

Appeals to the board may be taken by any person aggrieved by any officer, department, board or bureau of the municipality during the enforcement of the Zoning Regulations, or affected by any decision of the administrative officer regarding the applicability of such restrictions and/or requirements imposed by the Zoning Regulations. Such grievance shall be taken within a reasonable amount of time to the board for consideration and/or action, by filing an appeal specifying the grounds thereof and paying the fee required. The officer from whom the appeal is taken shall forthwith transmit to the board, all papers constituting the record upon which the action appealed was taken. The board shall have the power to hear appeals (of, where, or when) it is alleged there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the Zoning Regulations.

A. Appeal: An appeal in writing shall be filed with the board accompanied by such data and information as may be prescribed by the board as to assure the fullest possible presentation of facts for the permanent record.

B. On the appeal, the property for which review and consideration is sought shall be designated by legal description and general street location.

C. Accompanying the appeal, a certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be provided by the petitioner. If a proposed appeal to property for which review and consideration is sought is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

D. A filing fee of $100 and a publication fee of $50 shall be paid to the city clerk upon the filing of each appeal, for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.

1006 STAY PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the officer from the appeal of which is taken and on due cause shown.

1007 HEARING

The board shall fix a reasonable time for the hearing of any appeal, variance or exception, give public notice thereof as well as due notice to the parties of interest, and decide same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

A. Hearing: The board shall establish the time and place of the public hearing.

B. At least 20 days notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.

C. In addition to such public notice, written notice of such appeal shall be mailed to all property owners and applicable addresses, within 200 feet of the property (excepting public streets and ways), each party to the appeal and the appropriate planning commission and an opportunity granted to interested parties to be heard at the public hearing. If the proposed property for which appeal, variance, or exception is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.

1008 VARIANCES

The board is empowered to authorize in specific cases a variance from the specific terms of the zoning ordinance which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will in an individual case result in unnecessary hardship (total deprivation of use), and provided that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning ordinance in such district. A request for variance may be granted in such case upon finding by the board that all of the following conditions have been met:

A. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and that it is not created by an action or actions of the property owner represented in the application;

B. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owner represented in the application;

D. That the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

D. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

E. That granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinances.

1009 EXCEPTIONS

The board is authorized to grant exceptions to the provisions of the zoning ordinance in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant exceptions when conditions of this exception, as established in the zoning ordinance, are not found to be present.

1010 SPECIAL EXCEPTIONS

The board is authorized:

A. To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, which temporary building shall be located in the platted development area. No such permit shall be issued for more than 24 months or beyond completion of the project, whichever is shorter.

B. To grant a permit for the extension of a use or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership at the time of the adoption of the zoning ordinance, or at the time of annexation, whichever is later.

C. To determine in cases of uncertainty, the classification of any use not specifically enumerated in the zoning regulations.

1011 FURTHER POWERS OF THE BOARD

In exercising the powers set out in this article, such board may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made and that end shall have all powers of the officer from whom the appeal is taken.

1012 VOTE REQUIRED

The concurring vote of a majority of the members appointed to the board shall be required to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required, or to affect any variation of the zoning regulations.

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ARTICLE 11. METROPOLITAN AREA PLANNING COMMISSION

1100 RATIFYING, CONCURRING JOINT ORDINANCE-RESOLUTION

ORDINANCE NO. 238

AN ORDINANCE RATIFYING AND CONCURRING IN A JOINT ORDINANCE-RESOLUTION AND AN AGREEMENT DATED DECEMBER 19, 1967, WITH ANY AMENDMENTS THERETO, OF THE CITY OF WICHITA, KANSAS, AND SEDGWICK COUNTY, KANSAS, ATTACHING THE CITY OF HAYSVILLE, KANSAS, TO THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION AND REPEALING ORDINANCE NO. 229 PERTAINING THERETO.

Be it Ordained by the Governing Body of the City of Haysville, Kansas:

Section 1. The City of Haysville, Kansas, under the authority of K.S.A. 1965 Supp. 12-716, et seq., herein ratifies and concurs in the Joint Ordinance-Resolution establishing the Wichita-Sedgwick County Metropolitan Area Planning Commission and an Agreement dated December 19, 1967, with any amendments thereto, adopted by the Board of Commissioners of the City of Wichita and the Board of Commissioners of Sedgwick County. All future agreements or amendments are also ratified and concurred in, providing they are served on the Clerk of the City of Wichita and the Board of Commissioners of Sedgwick County. All future agreements or amendments are also ratified and concurred in, providing they are served on the Clerk of the City and the Chairman of the City Planning Commission, and provided the governing body does not officially object within 30 days of the service of such notice.

Section 2. That by such action the City of Haysville, Kansas, does hereby establish itself as a member of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

Section 3. The City Clerk is hereby directed to serve a copy of this ordinance to each governing body who is a member of the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Secretary of the Metropolitan Area Planning Commission.

Section 4. Ordinance No. 229 of the City of Haysville, Kansas be and the same is hereby repealed.

Section 5. This Ordinance shall be in force and take effect from and after its passage in the official city paper.

PASSED AND APPROVED, at Haysville, Kansas, this 26th day of February 1968.

/s/ Fred E. Ryan, Mayor

ATTEST:
/s/ V. Faye Mallory, City Clerk

(SEAL)

1101 AGREEMENT: BOARD OF COUNTY COMMISSIONERS

AGREEMENT

THE BOARD OF COMMISSIONERS OF THE CITY OF WICHITA AND THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, ON THIS 19th DAY OF DECEMBER, 1967 , PURSUANT TO THE ADOPTION OF A JOINT ORDINANCE-RESOLUTION CREATING THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, DO HEREBY AGREE TO THE FOLLOWING:

1. MEMBERSHIP, TERM, QUALIFICATIONS AND COMPENSATION. The Wichita-Sedgwick County Metropolitan Area Planning Commission shall consist of eight (8) members, four (4) of whom shall be appointed by the Mayor of the City of Wichita by and with the consent of the Board of Commissioners of the City of Wichita, and four (4) of whom shall be appointed by a majority vote of the Board of County Commissioners of Sedgwick County, Kansas. All terms shall commence on February 1, and expire on January 31. All terms of office other than the terms of the initial appointees shall be for four (4) years and until their successors shall have been duly appointed and qualified. All appointments to the Wichita-Sedgwick County Metropolitan Area Planning Commission existing at the date of this Agreement shall remain in full force and the appointees shall remain in office for the term to which appointed. Each of the appointments shall be made so that no more than one City and one County appointment shall expire each year. In case of death, incapacity, resignation or disqualification of any member, the Board making the appointment of such member shall appoint another member for the unexpired term of such deceased, incapacitated, resigned or disqualified member. Any person residing within the City of Wichita shall be eligible for appointment by the Board of Commissioners of the City of Wichita. Any person residing within Sedgwick County (including incorporated areas), or within an area under which planning jurisdiction has been established, shall be eligible for appointment by the Board of Commissioners of Sedgwick County. Members of the Wichita-Sedgwick County Metropolitan Area Planning Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as members of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

2. MEETINGS, ORGANIZATIONS, RECORDS. The Wichita-Sedgwick County Metropolitan Area Planning Commission shall convene for its meetings at such time and place as shall be fixed by its Chairman, and shall meet not less frequently than once a month. Said Planning Commission shall elect one member as Chairman and one member as Vice Chairman. The terms of the Chairman and Vice Chairman shall be for one year and until his successor shall have been elected and qualified. Special meetings of the Planning Commission may be called by the Chairman, or in his absence by the Vice Chairman, or a majority of all the Commissioners, on not less than 24 hours notice, such notice to be by mail or personal service by the Secretary or his representative, at the address given to the Secretary of the Planning Commission by such member. A quorum of the Planning Commission shall consist of five (5) members. The Planning Commission shall designate a Secretary and may also designate an Assistant Secretary, neither of whom need be members of the Planning Commission. The Secretary shall cause a proper record to be kept of all the proceedings of the Planning Commission. All action taken by the Wichita-Sedgwick County Metropolitan Area Planning Commission superseded hereby shall continue in full force and effect.

3. PLANNING COMMISSION AUTHORITY, FUNCTION, RESPONSIBILITY. The Wichita-Sedgwick County Metropolitan Area Planning Commission, herein sometimes referred to as the Planning Commission, shall have such power and duties as may be prescribed by law from time to time. As a primary function, the Planning Commission shall have the responsibility for the preparation, adoption, recommendation and maintaining of a long-range Comprehensive Development Plan to guide the future physical development of the area within the planning jurisdiction as established in the joint ordinance-resolution creating the Wichita-Sedgwick County Metropolitan Area Planning Commission. Such Comprehensive Development Plan shall consist of at least a land use element, a circulation element and a facilities element. The plan shall provide a statement of population distribution and density and proposed building intensities and other uses of land. The Commission shall recommend development plans for specific public works projects and for urban renewal. Such development plans shall be related to the Comprehensive Development Plan and shall ensure the integration of proposed land uses and for matters of access and relationship to the neighborhood within which such development plans provide for construction. Development plans shall also contain analysis of methods of financing proposed public works. The Planning Commission shall cause to be prepared zoning studies and shall recommend the zoning of all land within its jurisdiction as defined within the joint ordinance-resolution. The Planning Commission shall cause to be prepared recommendations governing the control of subdivisions within the area of its jurisdiction as heretofore defined. The Planning Commission shall cause to be prepared annually for the jurisdictions that they represent, a statement of current and past growth and development trends and anticipated growth for the succeeding year and for the succeeding five years. Such annual statement of anticipated growth and development shall also contain an annual review of the status of the General Plan and recommended adjustments in such Plan. Such annual review statement shall be transmitted to the administrative heads of the

political jurisdiction involved for the use by the respective jurisdictions in the preparation of their annual capital improvement budget. The Planning Commission shall cause to have reviewed annually the proposed capital improvement budgets of the respective jurisdictions and shall comment upon the proposed budget in terms of its conformity to and furtherance of the Comprehensive Development Plan. The Wichita-Sedgwick County Metropolitan Area Planning Commission shall assume and perform all of the powers, duties and functions heretofore vested in the Wichita City Planning Commission, and in the previously constituted Wichita-Sedgwick County Metropolitan Area Planning Commission.

4. WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING DEPARTMENT--ESTABLISHMENT THEREOF. There is hereby established and created the Wichita-Sedgwick County Metropolitan Area Planning Department. The Director of such Department shall be appointed by the City Manager of the City of Wichita and by the majority vote of the Board of Commissioners of Sedgwick County, Kansas, by joint appointment. All subordinate employees shall be similarly appointed, but it shall be the responsibility of the personnel Division of the Department of Administration of the City of Wichita to make such examinations, conduct such tests, obtain such records and generally supervise the Personnel of the Planning Department as may be reasonably necessary and in accordance with general personal practices and procedures of the City of Wichita. The Director of Planning and all subordinate employees shall serve at the pleasure of the majority vote of the Board of County Commissioners and the City Manager of the City of Wichita.

5. BUDGET, DISBURSING AGENTS. At such times as may be prescribed by the governing bodies, the Planning Department shall submit to the Board of County Commissioners of Sedgwick County, Kansas, to the City Manager of the City of Wichita, and to all other local governing bodies of their planning commissions, who directly contribute to the funding of the Planning Commission, a budget of income and expenditures for the ensuing fiscal year. This budget shall be submitted for review and comment. After such review and comment, such budget shall be considered by the Board of County Commissioners of Sedgwick County, Kansas, and the Board of City Commissioners of the City of Wichita, Kansas, and such budget as submitted, or as the same may be amended, shall be approved and adopted by said governing bodies to the extent of approximately 50% of such amended or revised budget by the Board of Commissioners of the City of Wichita, and such fiscal support by any other member, city or county, as any one or more of such cities or counties feel it can make. The City Treasurer of the City of Wichita is hereby designated as the custodian and disbursing agent for the total budget; and the Board of County Commissioners shall direct the County Treasurer to pay over direct to the City Treasurer of Wichita the County's portion of such budget.

6. PLANNING MATTERS--PRIOR ACTION AND PENDING PROCEEDINGS. All planning and zoning actions of every kind or character heretofore taken by the Wichita City Planning Commission, or the Sedgwick County Planning Commission heretofore created, shall be continued in full force and effect and shall in no way be affected by this joint resolution and ordinance. All petitions for zoning change, petitions for vacation of streets, alleys and other public ways, requests for changes in street names, requests for approval of plats and dedications, Master or Comprehensive Plans, and all other matters pending before the Wichita-Sedgwick County Metropolitan Area Planning Commission upon the effective date of this joint resolution-ordinance shall continue to be processed by said Commission before which such applications may be pending until such matters are concluded.

7. AGREEMENT AND EFFECTIVE DATES. This Agreement between the City of Wichita and Sedgwick County shall be ratified by either ordinance (City) or resolution (Counties) of any city or county desiring to become a member of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

AGREED TO this 19th day of December, 1967, at Wichita, Kansas.

By the BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY

/s/ Tom Scott, Chairman
/s/ Elmer S. Peters, Commissioner
/s/ Earl E. Rush, Commissioner

ATTEST: Marie Warden, County Clerk
(By /s/ Shirley Markey, Deputy County Clerk)

(SEAL)

By the CITY OF WICHITA

/s/ Clarence E. Vollmer, Mayor

ATTEST: Ralph C. Eberly, City Clerk

(SEAL)

1102 METROPOLITAN AREA PLANNING COMMISSION

ORDINANCE NO. 29-610

JOINT ORDINANCE OF THE CITY OF WICHITA, KANSAS, AND RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, PROVIDING FOR THE CREATION OF THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, DESIGNATING THE AREA OF PLANNING JURISDICTION, PROVIDING FOR THE METHOD OF ACCEPTING OTHER PARTICIPATING AGENCIES, PROVIDING FOR JOINT AGREEMENTS BETWEEN THE COOPERATING CITIES AND COUNTIES AND REPEALING A CERTAIN ORDINANCE AND RESOLUTION RELATING THERETO.

Be it ordained by the Governing Body of the City of Wichita: and

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, BEING IN REGULAR SESSION IN THE OFFICE AT THE COURTHOUSE IN WICHITA, KANSAS, THIS 6th DAY OF DECEMBER, 1967.

Section 1. CREATION. There is hereby created by the Wichita-Sedgwick County Metropolitan Area Planning Commission, as authorized by K.S.A. 1965 Supp. 12-716, et seq. Its membership, authority, function, responsibility, budget and staff shall be as established in agreements between the cooperating agencies, unless provided for herein.

Section 2. PLANNING AREA JURISDICTION. The area of planning jurisdiction for comprehensive planning as may be defined by Statute or further agreement between the cooperating agencies, shall include all of Sedgwick County and such other areas which, in the opinion of the Commission, bears a direct relationship to the development of the area. The Planning Commission shall hold a hearing on all zoning matters within the City of Wichita and within the unincorporated area three miles from the City of Wichita or from any City becoming a member of the Metropolitan Area Planning Commission; or for such area as may be determined appropriate if zoning is established under the provisions of K.S.A. 1965 Supp. 19-2919, et seq. The Planning Commission shall have subdivision jurisdiction within the City of Wichita and the unincorporated area within three miles thereof, and/or such other unincorporated area as may be determined appropriate by the Board of County Commissioners of Sedgwick County, either by Resolution of that Board of County Commissioners or by concurrence with Subdivision Regulations adopted by the Planning Commission. The Planning Commission shall also have such other jurisdiction as may be possessed by any member governing body or their planning commission when expressly delegated to the Wichita-Sedgwick County Metropolitan Area Planning Commission by Resolution or Ordinance. All matters pertaining to planning, zoning or subdivision affecting land within three miles of any member city or county shall be referred to the local Planning Commission if there be one, for discussion and recommendation before said matter shall be considered before the Metropolitan Area Planning Commission for action.

Section 3. MEMBER CITIES OR COUNTIES-ACCEPTANCE-DISSOLUTION. Any city in Sedgwick County, or county abutting Sedgwick County, or any city within such County, wishing to attach itself as a member, may become a member by first notifying the Wichita-Sedgwick County Metropolitan Area Planning Commission at least 15 days before adopting an ordinance (city) or resolution (county), which ratifies this joint ordinance-resolution (and amendments or supplements thereto), and existing agreements between the cooperating cities and counties concerning the Metropolitan Area Planning Commission. The Ordinance-Resolution shall provide for the ratification and concurrence of this ordinance-resolution and any agreements concerning the establishment of the Metropolitan Area Planning Commission, as well as any delegation of or assignment of areas of planning jurisdiction. The Ordinance-Resolution shall also provide that in addition to all existing agreements being ratified, all future amendatory agreements are also ratified unless within 30 days after service of such agreement upon a member city or county, they reject said amendment or new agreement. Such ordinance or resolution shall not become effective until all member units have been served a copy thereof. In the event any member shall wish to terminate its membership, the adoption of an ordinance or resolution shall be required, provided that such ordinance or resolution shall not become effective for 60 days after its service upon an officer of the Metropolitan Area Planning Commission.

Section 4. AGREEMENTS. The City of Wichita and the County of Sedgwick concurrently with the adoption of this Joint Ordinance-Resolution, shall enter into an agreement specifying the general purpose of the Planning Commission, designate the functions in addition to those contained herein, determining the number and qualifications of its members, provide for the manner of cooperation, the means and methods of operation and functioning of the Planning Commission, including the creation of a Planning Department, providing for the employment of personnel and consultants, determining the proportionate share of costs and expenses and such other matters as may be determined proper for consideration. Copies of such agreement shall be served upon the Clerks of the member cities or counties and the Chairman of their Planning Commissions, if there be any.

Section 5. SEVERABILITY. If this Joint Resolution and Ordinance, or any part thereof, shall be held or determined to be unconstitutional, illegal, ultravires or void, the same shall not be held or construed to change or annul any provision hereof which may be legal or lawful; and in the event this Joint Ordinance and Resolution, or any part thereof, shall be held unconstitutional, illegal, ultravires or void, the same shall not affect any action heretofore taken by the Wichita City Planning Commission, the Sedgwick County Planning Commission, or the Wichita-Sedgwick County Metropolitan Area Planning Commission as heretofore established and constituted.

Section 6. REPEAL. Ordinance No. 29-359 of the City of Wichita is hereby repealed.

Section 7. REPEAL. The Joint Ordinance-Resolution of the Board of County Commissioners of Sedgwick County, Kansas, adopted June 21, 1967, be and the same is hereby repealed.

PASSED AND APPROVED, at Wichita, Kansas, this 19th day of December, 1967.

/s/ Clarence E. Vollmer, Mayor

ATTEST: Ralph C. Eberly, City Clerk

(SEAL)

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, this 6th day of December 1967, after due consideration of all members being present and voting as follows:

TOM SCOTT Aye

ELMER S. PETERS Aye

EARL E. RUSH Aye

DATED AT WICHITA, KANSAS, this 6th day of December, 1967.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

/s/ Tom Scott, Chairman
/s/ Elmer S. Peters, Commissioner
/s/ Earl E. Rush, Commissioner

ATTEST:
/s/ Marie Warden, County Clerk

(SEAL)

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